



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-सा.-16062023-246607
CG-DL-W-16062023-246607

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 23] नई दिल्ली, जून 4—जून 10, 2023, शनिवार/ज्येष्ठ 14—ज्येष्ठ 20, 1945
No. 23] NEW DELHI, JUNE 4—JUNE 10, 2023, SATURDAY/JYAISHTHA 14—JYAISHTHA 20, 1945

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)
नई दिल्ली, 3 मई, 2023

का.आ. 914.—बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 की धारा 9 की उप-धारा (3) के खंड (क) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, पंजाब नैशनल बैंक के मुख्य महाप्रबंधक (सीजीएम) श्री आशुतोष चौधरी (जन्म तिथि: 4.9.1975) को कार्यभार ग्रहण करने की तारीख से तीन (03) वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, इंडियन बैंक के कार्यपालक निदेशक के पद पर नियुक्त करती है।

[ई.फा. सं. 4/6/2021-बीओ-1]

विजय शंकर तिवारी, अवर सचिव

MINISTRY OF FINANCE
(Department of Financial Services)

New Delhi, the 3rd May, 2023

S.O. 914.—In exercise of powers conferred by the proviso to clause (a) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, Central Government hereby appoints Shri Ashutosh Choudhury (DOB: 4.9.1975), Chief General Manager (CGM), Punjab National Bank as Executive Director (ED), Indian Bank for a period of three (03) years with effect from the date of assumption of office, or until further orders, whichever is earlier.

[eF. No. 4/6/2021-BO.I]

VIJAY SHANKAR TIWARI, Under Secy.

नई दिल्ली, 31 मई, 2023

का.आ. 915.—बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 की धारा 9 की उप-धारा (3) के खंड (क) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, इंडियन बैंक के कार्यपालक निदेशक श्री अश्वनी कुमार (जन्म तिथि: 2.9.1969) को दिनांक 1.6.2023 को या उसके पश्चात कार्यभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, यूको बैंक में प्रबंध निदेशक एवं मुख्य कार्यकारी अधिकारी (एमडी एंड सीईओ) के पद पर नियुक्त करती है।

[ईफा. सं. 4/3/2022-बीओ-1]

संजय कुमार मिश्र, अवर सचिव

New Delhi, the 31st May, 2023

S.O. 915.—In exercise of powers conferred by the proviso to clause (a) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, Central Government hereby appoints Shri Ashwani Kumar (DoB: 2.9.1969), Executive Director, Indian Bank as Managing Director & Chief Executive Officer (MD & CEO) in UCO Bank for a period of three years with effect from the date of assumption of office on or after 1.6.2023, or until further orders, whichever is earlier.

[eF. No. 4/3/2022-BO.I]

SANJAY KUMAR MISHRA, Under Secy.

विदेश मन्त्रालय

(सी.पी.वी.)

नई दिल्ली, 26 मई, 2023

का.आ. 916.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, सरकार भारत के राजदूतवास याँगो में उदय थापा, सहायक अनुभाग अधिकारी को दिनांक मई 26, 2023 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[फा.सं. टी.4330/01/2023(19)]

एस. आर. एच. फहमी, निदेशक (सीपीवी-1)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 26th May, 2023

S.O. 916.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Shri Uday Thapa, Assistant Section Officer as Assistant Consular Officer in the Embassy of India, Yangon to perform the consular services as Assistant Consular Officer with effect from May 26, 2023.

[F. No. T.4330/01/2023(19)]

S.R.H FAHMI, Director (CPV-I)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 6 जून, 2023

का.आ. 917.—जबकि, ओडिशा राज्य के बाहानगा बाजार में दिनांक 02.06.2023 को हुई भीषण रेल दुर्घटना के कारणों का अन्वेषण करने के लिए दिनांक 04.06.2023 को रेलवे बोर्ड के अर्ध-शासकीय पत्र के माध्यम से सीबीआई को एक संदर्भ प्राप्त हुआ है; और

जबकि, ओडिशा राज्य सरकार द्वारा अधिसूचना सं. 23595/होम-सीएचआर-एमआईएस-0162-2023, दिनांक 05.06.2023, के माध्यम से दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 6 के अंतर्गत जीआरपी थाना, बालासोर में भारतीय दंड संहिता की धारा 337/338/304-ए/34 और रेलवे अधिनियम, 1989 की धाराएं 153/154/175 के तहत दिनांक 03.06.2023 को दर्ज एफ.आई.आर. सं. 64 में केन्द्रीय अन्वेषण ब्यूरो द्वारा अन्वेषण करने की सम्मति प्रदान की गई है;

जहाँ, केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, ओडिशा राज्य सरकार, गृह विभाग, ओडिशा सरकार की अधिसूचना सं. 23595/होम-सीएचआर-एमआईएस-0162-2023, दिनांक 05.06.2023, के माध्यम से जारी सम्मति से, जीआरपी थाना बालासोर, कटक, ओडिशा, भारत में भारतीय दंड संहिता की धारा 337/338/304-ए/34 सपठित रेलवे अधिनियम, 1989 की धाराएं 153/154/175 के अंतर्गत दिनांक 03.06.2023 को दर्ज जीआरपीएस मामला सं. 64 का अन्वेषण और इससे जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त ओडिशा राज्य में करती है।

[फा. सं. 228/34/2023-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 6th June, 2023

S.O. 917.—Whereas a reference has been received from Railway Board vide DO letter dated 04.06.2023 requesting for CBI probe into the causes leading to major rail mishap at Bahanaga Bazaar in the State of Odisha on 02.06.2023; and

Whereas Government of Odisha vide Notification No. 23595/Home-CHR-MIS-0162-2023 dated 05.06.2023 has accorded consent under section 6 of Delhi Special Police Establishment Act, 1946 (25 of 1946) for investigation into FIR No. 64 dated 03.06.2023 under section 337/338/304-A/34 of IPC and sections 153/154/175 of the Railway Act, 1989, GRP Police Station Balasore by Central Bureau of Investigation;

Whence in exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State

Government of Odisha, issued vide Notification No. 23595/Home-CHR-MIS-0162-2023 dated 05.06.2023, Home Department, Govt. of Odisha, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Odisha for investigation of GRPS Case No. 64 dt. 03.06.2023 under section 337/338/304-A/34 of IPC r/w of 153/154/175 Railway Act, 1989 registered at Police Station Balasore GRPS, GRP CUTTACK, Odisha, India and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/34/2023-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

वाणिज्य एवं उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 6 जून, 2023

का.आ. 918.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मित्रा एस.के. प्राइवेट लिमिटेड, कुलाई, 3-54/C9, लक्ष्मी टावर्स, एन.एच-66, मेन रोड, नियर, शेट्टी आइसक्रीम, कुलाई मंगलौर- 575019, (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की सं० का.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-1, अर्थात् लौह अयस्क के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन मंगलौर पतन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-1 का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी; और
- (ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आवद्ध होंगी।

[फा. सं. के-16014/5/2023 -निर्यात निरीक्षण]

एम. बालाजी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the, 6th June, 2023

S.O. 918.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government now recognizes, M/s Mitra S.K. Private Limited, Kulai, 3-54/C9, Lakshmi Towers, NH-66, Main Road, Near Shetty Ice cream, Kulai, Mangalore - 575019, (hereinafter referred to as the said agency), as an agency for three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group - I, namely Iron Ore, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette vide number S.O.3975 dated 20th December, 1965 respectively, before export of the said Minerals and Ores at Mangalore port, subject to the following conditions, namely: -

- (i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council on this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965; and

(ii) the said agency, in performance of their function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/5/2023 - Export Inspection]

M. BALAJI, Jt. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 5 जून, 2023

का.आ. 919.—पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962, (1962 का 50) (इसके बाद उक्त अधिनियम कहा गया है) की धारा 2 के खंड (क) के अनुसरण में, केन्द्र सरकार उक्त अधिनियम के अधीन निम्न तालिका के कॉलम (2) में उल्लिखित क्षेत्र के संबंध में कॉलम (3) में उल्लिखित प्रचालनरत पेट्रोलियम पाइपलाइन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड हेतु उक्त अधिनियम के अंतर्गत सक्षम प्राधिकरण के कार्यों के निष्पादन के लिए निम्न तालिका के कॉलम (1) में उल्लिखित व्यक्ति को प्राधिकृत करती है : -

व्यक्ति का नाम और पता	क्षेत्राधिकार का क्षेत्र	पेट्रोलियम पाइपलाइन (न्स) का नाम	परिवहन किए जाने वाले उत्पाद / उत्पादों
(1)	(2)	(3)	(4)
श्री रघु राम नायक प्रचालन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड पारादीप हैदराबाद पाइपलाइन	आंध्र प्रदेश राज्य	पारादीप हैदराबाद पाइपलाइन	एमएस, एचएसडी, पीसीके, रिफॉर्मेट

यह अधिसूचना जारी होने की तारीख से लागू होगी।

[फा. सं. आर-11025(11)/19/2018-ओआर- I/ई-27024]

पी. सोमाकुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 5th June, 2023

S O. 919.—In pursuance of sub-section (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962), (hereinafter called the said Act), the Central Government hereby authorizes the person mentioned in column (1) of the table given below to perform the functions of the Competent Authority under the said Act for Indian Oil Corporation Limited in respect of areas mentioned in column (2) for the operational petroleum pipelines laid under the said Act mentioned in Column (3) of the said Table:-

Name and Address of the Person	Area of Jurisdiction	Name of Petroleum Pipeline(s)	Product/products to be transported
(1)	(2)	(3)	(4)
Shri Raghu Ram Nayak Operations Manager, Indian Oil Corporation Limited Paradip Hyderabad Pipeline	Andhra Pradesh state	Paradip Hyderabad Pipeline	MS, HSD, PCK, Reformate

This notification will be effective from the date of its issue.

[F. No. R-11025(11)/19/2018-OR-I/E-27024]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 5 जून, 2023

का.आ. 920.—पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962, (1962 का 50) (इसके बाद उक्त अधिनियम कहा गया है) की धारा 2 के खंड (क) के अनुसरण में, केन्द्र सरकार उक्त

अधिनियम के अधीन निम्न तालिका के कॉलम (2) में उल्लिखित क्षेत्र के संबंध में कॉलम (3) में उल्लिखित प्रचालनरत पेट्रोलियम पाइपलाइन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड हेतु उक्त अधिनियम के अंतर्गत सक्षम प्राधिकरण के कार्यों के निष्पादन के लिए निम्न तालिका के कॉलम (1) में उल्लिखित व्यक्ति को प्राधिकृत करती है :-

व्यक्ति का नाम और पता	क्षेत्राधिकार का क्षेत्र	पेट्रोलियम पाइपलाइन (न्स) का नाम	परिवहन किए जाने वाले उत्पाद/उत्पादों
(1)	(2)	(3)	(4)
श्री आशीष कुमार, सहायक प्रबंधक (प्रचालन और अनुरक्षण), इंडियन ऑयल कॉर्पोरेशन लिमिटेड उत्तरी क्षेत्र पाइपलाइन्स, पानीपत	हरियाणा और पंजाब स्टेट	मथुरा जालंधर पाइपलाइन	एमएस, एसकेओ, एचएसडी, पीसीके, नेफ्था, एटीएफ, ईबीएमएस, डीएचपीपी
		पीएजे ऊना शाखा पाइपलाइन	एमएस, एसकेओ, एचएसडी, पीसीके
		पानीपत जालंधर एलपीजी पाइपलाइन	एलपीजी
		पानीपत भटिंडा पाइपलाइन	एमएस, एसकेओ, एचएसडी, पीसीके
		सलाया मथुरा पाइपलाइन	कूड ऑयल
		मुंद्रा पानीपत पाइपलाइन	कूड ऑयल
		पानीपत बिजवासन एटीएफ पाइपलाइन (पीबीएपीएल)	एटीएफ
		जयपुर पानीपत नेफ्था पाइपलाइन	एमएस, एसकेओ, एचएसडी, पीसीके, नेफ्था
		सोनीपत मेरठ पाइपलाइन (एसएनएमपीएल)	एमएस, एसकेओ, एचएसडी, पीसीके
		कुरुक्षेत्र रुड़की नजीबाबाद (केआरएनपीएल)	एमएस, एसकेओ, एचएसडी, पीसीके
		पानीपत रेवाड़ी पाइपलाइन	एमएस, एसकेओ, एचएसडी, पीसीके

इससे पूर्व दिनांक 22 जनवरी 2021 के भारत के राजपत्र में प्रकाशित दिनांक 6 फरवरी 2021 के का.आ .91 के अंतर्गत हरियाणा और पंजाब राज्य में इंडियन ऑयल कॉर्पोरेशन लिमिटेड के लिए अधिसूचित सक्षम प्राधिकारी, श्री आशीष वर्णवाल, अनुरक्षण प्रबंधक, को डी-नोटिफाइड समझा जाए।

यह अधिसूचना जारी होने की तारीख से लागू होगी।

[फा. सं. आर-11025(11)/19/2018-ओआर- I/ई -27024]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 5th June, 2023

S O. 920.—In pursuance of sub-section (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962), (hereinafter called the said Act), the Central Government hereby authorizes the person mentioned in column (1) of the table given below to perform the functions of the Competent Authority under the said Act for Indian Oil Corporation Limited in respect of areas mentioned in column (2) for the operational petroleum pipelines laid under the said Act mentioned in Column (3) of the said Table:-

Name and Address of the Person	Area of Jurisdiction	Name of Petroleum Pipeline(s)	Product/products being transported
Shri Ashish Kumar, Assistant Manager (Operations &	Haryana and Punjab state	Mathura Jalandhar Pipeline	MS, SKO, HSD, PCK, Naptha, ATF, EBMS, DHPP

Maintenance), Indian Oil Corporation Limited Northern Region Pipelines, Panipat	PAJ Una Branch Pipeline	MS, SKO, HSD, PCK
	Panipat Jalandhar LPG Pipeline	LPG
	Panipat Bhatinda Pipeline	MS, SKO, HSD, PCK
	Salaya Mathura Pipeline	Crude Oil
	Mundra Panipat Pipeline	Crude Oil
	Panipat Bijwasan ATF Pipeline (PBAPL)	ATF
	Jaipur Panipat Naptha Pipeline	MS, SKO, HSD, PCK, Naptha
	Sonepat Meerut Pipeline (SnMPL)	MS, SKO, HSD, PCK
	Kurukshetra Roorkee Najibabad (KRNPL)	MS, SKO, HSD, PCK
	Panipat Rewari Pipeline	MS, SKO, HSD, PCK

Earlier notified Competent Authority for Indian Oil Corporation Limited in the Haryana and Punjab state, Shri Ashish Varnawal, Maintenance Manager, Indian Oil Corporation Limited, vide S.O. 91 dated 22nd January 2021 published in the Gazette of India dated 6th February 2021 stands de-notified.

This notification will be effective from the date of its issue.

[F.No. R-11025(11)/19/2018-OR-I/E-27024]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 5 जून, 2023

का.आ. 921.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 5299(अ) तारीख 03 नवम्बर 2022, जो भारत के असाधारण राजपत्र संख्या 5079 तारीख 15 नवम्बर 2022, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में कर्नाटक राज्य में हासन (कर्नाटक) से चेरलापल्ली (तेलंगाना राज्य) तक एल.पी.जी के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त असाधारण राजपत्र अधिसूचना की प्रतिया जनता को तारीख 10 दिसम्बर 2022 तक उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है की इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है की उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर हिन्दुस्थान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) में निहित होगा

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए हिन्दुस्थान पेट्रोलियम कार्पोरेशन लिमिटेड (एच.पी.सी.एल) पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

जिला: तुमकूर				राज्य: कर्नाटक	
क्रमांक	तालुक का नाम	गाँव का नाम	सर्वे नं.	क्षेत्रफल	
				एकर्स	गुंटा
(1)	(2)	(3)	(4)	(5)	(6)
1	तिपटूर	1.चौडेनहल्ली	48/2	00	01
2	तिपटूर	2.होन्नावल्ली	98/8बी	00	01
3	तिपटूर	3.रट्टेनहल्ली	27/5	00	03
4	तिपटूर	4.बलुवनेरलू	24/2	00	01
5			29/6	00	01
6			34/8	00	01
7	चिक्कनायकनहल्ली	5.कमलापुरा	57/5	00	01
8	चिक्कनायकनहल्ली	6.होईसालकट्टे	78/3सी	00	02

[फा. सं. आर-12030(27)/2/2019-ओआर-I/ई-30930]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 5th June, 2023

S.O. 921.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No.5299 (E) dated the 03rd November 2022, issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Extraordinary Gazette of India No.5079 dated the 15 November 2022, the Central Government declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline in state of Karnataka for transportation of LPG, from Hassan (Karnataka) to Cherlapalli (Telangana) Pipeline by Hindustan Petroleum Corporation Limited (HPCL).

And whereas copies of the said Extraordinary Gazette notification were made available to the public up to 10th December 2022.

And whereas the competent authority has under Sub-section (1) of Section 6 of the said Act submitted report to the Central Government.

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire Right of User therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Hindustan Petroleum Corporation Limited (HPCL), free from all encumbrances.

Hindustan Petroleum Corporation Limited (HPCL) shall be exclusively liable for any compensation in terms of Section 10 of the P&MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government for any matter relating to the pipeline.

SCHEDULE

Dist: Tumakuru				State: Karnataka	
Sl. No.	Name of the Taluk	Name of the Village	Survey No.	Area	
				Acres	Guntas
(1)	(2)	(3)	(4)	(5)	(6)
1	Tipturu	1.Chowdenahalli	48/2	00	01
2	Tipturu	2.Honnnavalli	98/8B	00	01
3	Tipturu	3.Rattenahalli	27/5	00	03
4	Tipturu	4.Baluvaneralu	24/2	00	01
5			29/6	00	01
6			34/8	00	01
7	Chikkanayakanahalli	5.Kamalapura	57/5	00	01
8	Chikkanayakanahalli	6.Hoyisalakatte	78/3C	00	02

[F. No. R-12030(27)/2/2019-OR-I/E-30930]

P. SOMAKUMAR, Under Secy.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 19 मई, 2023

का.आ. 922.—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में प्रसार भारती, दूरदर्शन महानिदेशालय के अधीनस्थ कार्यालय यथा दूरदर्शन केंद्र, अहमदाबाद, जिनके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा. सं. ई-11017/10/2017-हिंदी]

इफ्तेखार अहमद, उप निदेशक (राजभाषा)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 19th May, 2023

S.O. 922.—pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the subordinate office of Prasar Bharti, Directorate General, Doordarshan namely Doordarshan Kendra, Ahmedabad, whereof more than 80% of the staff have acquired the working knowledge of Hindi.

[F. No. E-11017/10/2017-Hindi]

IFTEKHAR AHMAD, Dy. Director (O.L.)

नई दिल्ली, 19 मई, 2023

का.आ. 923.—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, प्रसार भारती के अधीनस्थ कार्यालय यथा दूरदर्शन महानिदेशालय, नई दिल्ली, जिनके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[फा. सं. ई-11017/10/2017-हिंदी]

इफ्तेखार अहमद, उप निदेशक (राजभाषा)

New Delhi, the 19th May, 2023

S.O. 923.—In pursuance of Sub-Rule (4) of Rule 10 of The Official Language (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the subordinate office of Prasar Bharti namely Directorate General, Doordarshan, New Delhi, whereof more than 80% of the staff has acquired the working knowledge of Hindi.

[F. No. E-11017/10/2017-Hindi]

IFTEKHAR AHMAD, Dy. Director (O.L.)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 30 मई, 2023

का.आ. 924.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्मी पब्लिक स्कूल, नारेंगी, गुवाहाटी, के प्रबंधन के संबद्ध नियोजकों और सचिव, भारतीय राष्ट्रीय ट्रेड यूनियन कांग्रेस (आईएनटीयूसी), असम शाखा, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय गुवाहाटी पंचाट(संदर्भ संख्या 17/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 29/05/2023 को प्राप्त हुआ था।

[सं. एल- 42025-07-2023-126- आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 30th May, 2023

S.O. 924.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2022) of the Central Government Industrial Tribunal cum Labour Court—Guwahati, as shown in the Annexure, in the Industrial dispute between the employers in relation to Army Public School, Narengi, Guwahati, and The Secretary, Indian National Trade Union Congress (INTUC), Assam Branch, which was received along with soft copy of the award by the Central Government on 29/05/2023.

[No. L- 42025-07-2023-126- IR (DU)]

D.K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer/Link Officer,
CGIT-cum-Labour Court, Guwahati.

REFERENCE CASE NO. 17 of 2022.

PARTIES : Sri Matinur Rahman and 5 others. Workmen.

The Management of Army Public School, Narengi, Guwahati.

.....OP/Management.

REPRESENTATIVES:

For the Workmen/Union : Sri Basanta Kumar Kalita,
Secretary of Indian National Trade Union Congress (INTUC),
Assam Branch.

For the Management. : Sri H. Gupta, learned Advocate,
Sri Yeasir Barbhuiya, learned Advocate,

INDUSTRY : Army Public School

STATE : Assam.

Date of Award : 12/05/2023.

AWARD

1. This Application u/s 2A(2) of the Industrial Dispute Act, 1947 has been filed by six workmen through Mr. Basanta Kumar Kalita, Union representative contending inter-alia that the aforesaid workmen were employed as badlies, casual/temporary workers and have rendered satisfactory services to the establishment of the School. Since the fixed terms of engagement was not extended the petitioners challenged the legality of their termination from employment, seeking re-instatement in service and regularization. The conciliation proceeding before the Regional Labour Commissioner (Central), Guwahati failed. A certificate has been issued by the Regional Labour Commissioner (Central), Guwahati dated 04-07-2022 addressed to the Secretary, Government of India, Ministry of Labour and Employment, New Delhi informing that eight workmen including petitioners raised an Industrial Dispute against the Management, Army Public School, Guwahati over termination of their service. The conciliation was held in presence of both the parties but the same failed as the Management did not accept the workmen after expiry of their fixed term of employment. It has been certified under section 12 (4) of the Industrial Dispute Act that no settlement could be reached in respect of the dispute referred to it.

2. Based on such failure of conciliation proceeding the workmen preferred this reference case under section 2A (2) of the Industrial Dispute Act.

In the mean time, on the self same matter the Government of India, Ministry of Labour and Employment, New Delhi has made a reference to this Tribunal under clause (d) of sub-section 1 and sub-section 2A of section 10 of the Industrial Dispute Act for adjudication.

3. Mr. Basanta Kumar Kalita, the Secretary, Indian National Trade Union Congress, Assam Branch has appeared today and filed a petition on behalf of the workman namely Sri Matinur Rahman and 5 others praying for withdrawing this reference Case filed on behalf of the workmen u/s 2A (2) of Industrial Dispute Act. It is urged that on the self same matter another case has been initiated by the workmen u/s 10 (2A) of the Industrial Dispute Act which has been referred by the Government of India, Ministry of Labour for adjudication and has been registered as Reference Case No.01 of 2023. Copy of the application has been served upon Mr. Yeasir Barbhuiya, learned Advocate accompanying Mr. H. Gupta, who has filed Vokatnama in this case. Heard Mr. Kalita and Mr. Yeasir Barbhuiya. No objection is raised. Considered.

In view of the facts and circumstances mentioned in the petition the prayer for withdrawing this Reference Case is allowed. The reference case is accordingly dismissed as withdrawn.

Hence,

ORDERED

The reference Case u/s 2A (2) of the I.D. Act stands dismissed as withdrawn. Let copies of the Award be communicated to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer/Link Officer

नई दिल्ली, 1 जून, 2023

का.आ. 925.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, अजमेर के पंचाट (09/17, 50/2017) प्रकाशित करती है।

[सं. एल 12025/01/2023- आई आर (बी-1)-37]

सलोनी, उप निदेशक

New Delhi, the 1st June, 2023

S.O. 925.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 09/17,50/2017) of the *Industrial Tribunal-cum-Labour Court Ajmer* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12025/01/2023- IR(B-1) -37]

SALONI, Dy. Director

अनुलग्नक

श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर
पीठासीन अधिकारी—रामेश्वर प्रसाद चौधरी, आर.एच.जे.एस

प्रकरण संख्या— सी आई टी आर 09/17

सी आई एस नं. 50/2017

सी एन आर नं.आर जे ए जे 050008412017

श्रीमति कल्पना पाराशर पत्नी श्री नेमीचंद पाराशर निवासी इंद्रा कॉलोनी, गर्वनमेंट स्कूल के सामने, कृषि मंडी चौराहा, विजयनगर, जिला अजमेर

—प्रार्थीया

बनाम

1—चीफ जनरल मैनेजर, भारतीय स्टेट बैंक स्थानीय प्रधान कार्यालय, तत्कालीन नयी दिल्ली हाल वर्तमान तिलक मार्ग सी स्कीम, जयपुर

2—सहायक महाप्रबंधक, भारतीय स्टेट बैंक 14 अशोक विहार कॉलोनी, मेन रोड, शांतिपुरा वैशाली नगर, अजमेर

3—शाखा प्रबंधक, भारतीय स्टेट बैंक कृषि मंडी चौराहा, बालाजी रोड, विजयनगर जिला अजमेर

—अप्रार्थीगण

उपस्थिति

प्रार्थीया की ओर से : श्री अरुण शर्मा, अधिवक्ता ।

अप्रार्थीगण की ओर से : श्री एस के सेठी, अधिवक्ता ।

—: अवार्ड :-

दिनांक : 11.5.2022

1. प्रार्थीया कल्पना पाराशर ने अप्रार्थीगण के विरुद्ध स्टेटमेंट ऑफ क्लेम दि.20.11.2017 को इस आशय का प्रस्तुत किया है कि प्रार्थीया ने समझौता अधिकारी एवं सहायक श्रम आयुक्त केंद्रीय भारत सरकार के समक्ष औद्योगिक विवाद अधिनियम 1947 के अंतर्गत एक आवेदन दि.7.6.17 को कल्पना पाराशर बनाम भारतीय स्टेट बैंक प्रस्तुत किया था । जिस पर समझौता अधिकारी ने पत्र क.ए जे 7(7)/2017 एल सी दि.29.9.17 के जरिये प्रार्थीया को अपना क्लेम श्रम न्यायालय के समक्ष प्रस्तुत करने का आदेश दिया । जिस पर यह स्टेटमेंट ऑफ क्लेम प्रस्तुत किया गया है । अप्रार्थी

- सं. 3 द्वारा प्रार्थीया को दि.19.9.08 को अस्थायी मैसंजर एवं कैंटीन बॉय के पद पर नियुक्त किया गया था । जिसके तहत प्रार्थीया सुबह साढ़े नौ बजे से साढ़े छः बजे तक शाखा में रिकॉर्ड रूम में हैल्पर पर कार्य, चाय सर्व करने का कार्य करती थी । प्रार्थीया को बिना किसी आरोप, जांच कार्यवाही किये बिना, प्राकृतिक न्याय के सिद्धांतों की अवहेलना करते हुए अप्रार्थी सं.3 ने अपने पत्र क.बी.एम.नं.2017-18/06 दि.31.5.17 के जरिये बैंक सेवाओं से पृथक कर दिया । उक्त खंडित आदेश दि.31.5.17 गैर कानूनी मन-माना व बिना किसी न्यायोचित आदेश के पारित किया गया है । प्रार्थीया को प्रत्येक माह मानदेय राशि का चैक द्वारा भुगतान किया जाता था जो बैंक परिपत्र क.3708 की अवहेलना थी । मैसंजर के कार्य का भुगतान डे टुडे बेसिक के आधार पर चार्जज वाउचर एवं प्रार्थीया द्वारा बनाये गये बिलों का भुगतान पेटी कैश से किया जाता था । कैंटीन बॉय के कार्य का भुगतान मान देय राशि चैक के द्वारा किया जाता था । प्रार्थीया द्वारा विगत नौ वर्षों से अप्रार्थी सं.3 के अंतर्गत कार्य किया जाता रहा । प्रार्थीया स्टेट बैंकिंग कैंटीन स्टाफ एसोसिएशन दिल्ली की मेंबर है । प्रार्थीया ने अपने सेवाकाल के दौरान रिकॉर्ड एवं वाउचर को व्यवस्थित करने, स्टेशनरी मूल्यांकन हेतु भौतिक सत्यापन करवाने, ऋण वसूली में पूर्ण सहयोग करने व ग्राहकों को प्रेरित करने का कार्य किया है । नोटबंदी के दौरान प्रार्थीया से रात दस-दस बजे तक कार्य करवाया गया ।
2. प्रार्थीया का यह भी अभिवचन है कि बैंक शाखा जब से खुली तब से मैसंजर की नियुक्ति नहीं हुई इसलिए प्रार्थीया से ही मैसंजर के सभी कार्य करवाये जाते थे । प्रार्थीया की सेवा संतोषजनक रही है । कोई शिकायत नहीं रही है । प्रार्थीया को कभी आरोप पत्र नहीं दिया गया न कोई जांच की गयी । प्रार्थीया को सेवा से पृथक करने का आदेश निराधार दिया गया है । अप्रार्थी सं.3 के द्वारा दिये गये टर्मिनेशन आदेश से साबित है कि वर्तमान बैंक शाखा प्रबंधक व फील्ड ऑफिसर ने मिली भगत से देर रात तक निजी कार्य के बहाने प्रार्थीया पर दबाव बनाते थे जिसमें असफल रहने पर अप्रार्थी सं.3 ने टर्मिनेशन लेटर दि.31.5.17 प्रार्थीया को दिया है जो दुर्भावना से प्रेरित, अनैतिक व अत्याचार के जुर्म की पराकाष्ठा है । प्रार्थीया के विरुद्ध पारित आदेश दि.31.5.17 निरस्त व अपास्त किये जाने योग्य है । प्रार्थीया के रिक्त स्थान की जगह किसी अन्य कर्मचारी की नियुक्ति की गयी है, जो अनफेयर लेबर प्रैक्टिस की परिभाषा में आता है । अंत में प्रार्थीया का अभिवचन रहा है कि अप्रार्थीगण द्वारा पारित आदेश दि.31.5.17 को अपास्त किया जावे तथा प्रार्थीया को दि.19.9.08 से पुनः बहाली के आदेश पारित किये जावे तथा पुनः बहाली के आदेश की दिनांक से पुनः नौकरी दिये जाने तक समस्त वेतन परिलाभ व अन्य समस्त लाभ व उन पर देय ब्याज भी दिलवाया जावे तथा प्रार्थीया को दि.19.9.08 से स्थाई सेवा में समायोजित किया जावे । प्रार्थीया की ओर से अपने अभिवचनों के समर्थन में शपथ पत्र भी प्रस्तुत किया गया है ।
3. अप्रार्थीगण की ओर से जवाब इस आशय का प्रस्तुत किया गया है कि प्रार्थीया को दि.19.9.08 को अप्रार्थी सं.1 द्वारा अस्थायी मैसंजर एवं कैंटीन ब्याय के पद पर नियुक्त किये जाने का तथ्य अस्वीकार है । एस.बी.आई. एक राष्ट्रीयकृत वित्तीय संस्था है जिसमें कर्मचारी व अधिकारियों की नियुक्ति हेतु एक निश्चित प्रक्रिया है, जो पूर्ण करके ही नियुक्ति प्रदान की जाती है। प्रार्थीया ने कहीं अंकित नहीं किया है कि उसे किस वेतनमान में नियुक्त किया गया । अप्रार्थी सं.3 ने प्रार्थीया को पत्र दि.31.5.17 अथवा टर्मिनेशन पत्र अथवा नियुक्ति पत्र नहीं दिया। पत्र दि.31.5.17 फर्जी व कूटचित है । उक्त पत्र नेमीचंद पाराशर को दिया गया था न कि प्रार्थीया को । दि.31.5.17 का पत्र सेवा से पृथक करने का पत्र नहीं है न ही प्रार्थीया को दिया गया है । बैंक कर्मचारियों को वेतन का भुगतान जरिये वाउचर नहीं किया जाता शाखा में आकस्मिक कार्य की मजदूरी के लिए वाउचर के जरिये भुगतान करने की व्यवस्था है । बैंक में कैंटीन बॉय का कोई पद सृजित नहीं है । प्रार्थीया द्वारा प्रस्तुत चैक बैंक द्वारा जारी नहीं किये गये । बल्कि स्टाफ वेलफेयर कमेटी द्वारा जारी किये गये हैं । बैंक में चाय नाश्ता अल्पाहार आदि का भुगतान वाउचर बिलों से किया जाता है । प्रार्थीया की अप्रार्थी सं.3 के यहां कभी किसी प्रकार की नियुक्ति नहीं हुई। अतः उसे सेवा से हटाने का प्रश्न ही उत्पन्न नहीं होता । बैंक में किसी प्रकार की नियुक्ति देने अथवा हटाने का अधिकार शाखा स्तर के अधिकारी को नहीं होता । केवल प्रतिदिन के आधार पर कुछ समय घंटों की तयशुदा मजदूरी पर किसी व्यक्ति को आवश्यकतानुसार कभी-कभी रख सकते हैं । प्रार्थीया का नियमित रूप से विगत नौ वर्षों से कार्य करने का कथन असत्य व निराधार है । प्रार्थीया को केवल खुली मजदूरी के तहत तयशुदा मजदूरी के आधार पर कुछ घंटों हेतु ही बैंक द्वारा रखा गया था । प्रार्थीया को बैंकिंग अधिनियम व केंद्रीय औद्योगिक अधिनियम कर्मचारी अधिनियम के प्रावधान लागू नहीं होने के कारण प्रार्थीया किसी भी प्रकार का लाभ पाने की अधिकारी नहीं है । प्रार्थीया कभी बैंक में नियोजित ही नहीं हुई । प्रार्थीया व बैंक के मध्य कर्मकार व नियोजक का संबंध स्थापित नहीं हुआ । प्रार्थीया द्वारा ग्राहकों को प्रेरित करने के संबंध में किया गया कथन गलत व निराधार होने से अस्वीकार है । नोटबंदी के दौरान प्रार्थीया से कोई कार्य नहीं लिया गया । अप्रार्थी सं.3 के प्रबंधक व अधिकारी ने प्रार्थीया से क्या टॉर्चर किया, क्या पर्सनल कार्य कराते थे, आदि के अभाव में स्पष्ट जवाब दिया जाना संभव नहीं है । उक्त कथन अनुचित दबाव डालने हेतु किये गये हैं । प्रार्थीया बैंक की स्थाई कर्मचारी कभी नहीं रही । प्रार्थीया को आकस्मिक कार्य के लिए बुलाया जाता था, जो कार्य समाप्त होने पर तयशुदा मजदूरी का भुगतान कर दिया जाता था । आरोप पत्र स्थाई बैंक कर्मचारी को दिया जाता है। बैंक में प्रार्थीया की नियुक्ति ही नहीं हुई, जो उसे आरोप पत्र दिया जाता । बैंक में किसी प्रकार की नियुक्ति देने अथवा हटाने का अधिकार शाखा स्तर के अधिकारी को नहीं है, वे केवल प्रतिदिन के आधार पर कुछ समय, कुछ घंटे के लिए पूर्व तयशुदा मजदूरी पर किसी व्यक्ति को आवश्यकतानुसार रख सकते हैं । प्रार्थीया को बैंक में स्थाई या अस्थायी आधार पर नियुक्त नहीं किया गया था । अतः प्रार्थीया को कारण बताओ नोटिस या छंटनी का नोटिस या मुआवजा नोटिस देने का प्रश्न ही उत्पन्न नहीं होता । अप्रार्थी सं.3 ने पत्र दि.31.5.17 प्रार्थीया को जारी नहीं किया। प्रार्थीया ने प्रधानमंत्री मुद्रा योजना के अंतर्गत किराणा व्यवसाय के लिए अप्रार्थी सं.3 से दि.28.9.10 को पचास हजार रुपये का ऋण प्राप्त किया है, ऐसी परिस्थिति में प्रार्थीया स्वयं का व्यवसाय चलाती

है तो अप्रार्थी सं.3 के यहां कार्य करने का प्रश्न ही पैदा नहीं होता । प्रार्थीया से केवल आकस्मिक कार्य तयशुदा मजदूरी पर करवाये जाते थे । अतः आई डी एक्ट 1947 की धारा 25 एफ, जी, एच के प्रावधान लागू नहीं होते । आकस्मिक कार्य करवाने के बाद प्रार्थीया का बैंक के साथ कर्मचारी.नियोक्ता का कभी कोई संबंध नहीं रहा । प्रार्थीया व बैंक के मध्य कर्मकार व नियोजक का संबंध स्थापित नहीं होने के कारण कोई विवाद या औद्योगिक विवाद न तो विद्यमान है न विद्यमान होने का अंदेश है । बैंक में सभी नियुक्तियां लिखित आदेश पर की जाती है तथा सेवामुक्ति भी निश्चित प्रक्रिया के तहत लिखित आदेश से की जाती है । प्रार्थीया येनकेन प्रकारेण पिछले दरवाजे से बैंक में नियुक्ति हेतु प्रवेश चाह रही है । अप्रार्थी सं.3 ने दैनिक कार्यों के लिए राजेंद्र मैनेजमेंट ग्रुप से अनुबंध कर रखा है । जिसके तहत मांग पर आदमी उपलब्ध करवाता है । इसी क्रम में राजेंद्र मैनेजमेंट ग्रुप ने बैंक में नेमीचंद पाराशर को सहायक के रूप में उपलब्ध करवाया था जिसका भुगतान राजेंद्र मैनेजमेंट ग्रुप द्वारा ही किया जाता था न कि बैंक द्वारा । इस प्रकार बैंक एवं प्रार्थीया के मध्य कभी भी एंप्लॉयर एंप्लॉयी के संबंध नहीं रहे । अंत में उन्होंने प्रार्थीया का प्रार्थना पत्र अस्वीकार कर खारिज करने का अभिवचन किया । अपने अभिवचनों के समर्थन में भारत शर्मा, प्रबंधक का शपथ पत्र भी प्रस्तुत किया गया है ।

4. उभयपक्षकारान् के अभिवचनों व दस्तावेजों के आधार पर अधिकरण द्वारा निम्नांकित तनकियात विरचित की गयी :-

1—आया अप्रार्थी सं.3 द्वारा दि.19.9.2008 को अस्थाई मेसेंजर एवं कैंटीन बॉय के पद पर प्रार्थीया को नियुक्त किया जाकर हेल्पर व अधीनस्थ कर्मचारी का कार्य दि.31.5.2017 तक निरंतर लिया गया और प्रार्थीया द्वारा निरंतर किया गया ?

2—आया अप्रार्थी सं.3 द्वारा दि.31.5.17 को पत्र जारी कर प्रार्थीया की सेवायें प्राकृतिक न्याय के सिद्धांत, औद्योगिक विवाद अधिनियम 1947 के उल्लंघन में गलत व अवैध तौर पर समाप्त की जाकर अनफेयर लेबर प्रेक्टिस की गयी ?

3—आया प्रार्थीया सेवामुक्ति आदेश दि.31.5.2017 को अपास्त करवा पूर्व वेतन परिलाभ सहित अप्रार्थीगण की सेवा में पूर्वतः पुनर्स्थापना की अधिकारिणी है ?

4—अनुतोष ?

5. प्रार्थीया की ओर से अपने मामले के समर्थन में ए डब.1 के रूप में स्वयं को पेश कर परीक्षित करवाया गया तथा प्रदर्श डब.1 लगायत डब.63 दस्तावेज पेश कर प्रदर्शित करवाये गये हैं । प्रार्थीया की ओर से अन्य मौखिक साक्षी ए डब.2 गोपालसिंह को पेश कर परीक्षित करवाया गया । अप्रार्थीगण की ओर से मौखिक साक्ष्य में एन ए डब.1 प्रमोद कुमार शाखा प्रबंधक को पेश कर परीक्षित करवाया गया तथा दस्तावेजी साक्ष्य में प्रदर्श एम—1 लगायत एम—10 दस्तावेज पेश कर प्रदर्शित करवाये गये ।

6. बहस अंतिम उभयपक्षकारान् सुनी गयी । दौराने बहस प्रार्थीया की ओर से लिखित बहस प्रस्तुत कर तर्क दिया गया कि प्रार्थीया के आवेदन दि.7.6.17 पर समझौता वार्ता असफल हो जाने पर समझौता अधिकारी एवं सहायक श्रम आयुक्त, अजमेर ने प्रार्थीया को स्टेटमेंट ऑफ क्लेम श्रम न्यायालय के समक्ष प्रस्तुत करने के आदेश दिये हैं जिस पर यह स्टेटमेंट ऑफ क्लेम प्रस्तुत किया गया है । प्रार्थीया दि.19.9.08 से दि.31.5.2017 तक अप्रार्थी के यहां कैंटीन बॉय के पद पर कार्यरत रही । अप्रार्थी सं.3 ने बिना किसी कारण प्रार्थीया को हटा दिया । न तो प्रार्थीया को एक महीने का नोटिस दिया न ही कोई भुगतान किया गया । अप्रार्थी का उक्त कृत्य धारा 25 (F) आई डी एक्ट के विरुद्ध है । प्रार्थीया श्रमिक की मौखिक नियुक्ति वैधानिक एवं मान्य है जो औद्योगिक विवाद अधिनियम 1947 की धारा 2एस की परिभाषा में आती है । माननीय उच्चतम न्यायालय द्वारा आई डी एक्ट 1947 की धारा 2एस के अंतर्गत देवेंद्रसिंह बनाम म्युनिसिपल काउंसिल के निर्णय में वैधानिक माना गया है । अप्रार्थीगण का यह कथन निराधार एवं मिथ्या है कि कर्मचारी की मौखिक नियुक्ति का कोई नियम नहीं है । अप्रार्थी सं.3 द्वारा पारित आदेश दि.31.5.17 जिसके तहत प्रार्थीया को सेवा से पृथक कर दिया गया पूर्णतया गैर कानूनी, मनमाना व प्राकृतिक न्याय के सिद्धांतों के विपरीत है । जो निरस्त किये जाने योग्य है । अप्रार्थी सं.3 की ओर से प्रमोद कुमार शर्मा का शपथ पत्र विधिक तौर पर अमान्य है क्योंकि यह गवाह सुनी—सुनाई साक्ष्य दे रहे हैं । अप्रार्थीगण की ओर से प्रदर्श एम—1 प्रस्तुत किया गया है जिसका वर्तमान विवाद से कोई संबंध नहीं है । स्थानीय क्रियान्वयन समिति के नाम पर श्रमिकों को नियुक्त करना और उन्हें बैंक द्वारा अपना श्रमिक नहीं मानना, अनुचित श्रम व्यवहार की परिभाषा में आता है । प्रार्थीया ने प्रतिवर्ष 240 दिन से अधिक निरंतर शाखा में कार्य किया है । जिस पर प्रार्थीया नियमित रूप से सेवा में रहने की हकदार हो जाती है । जिसको स्थाई करने से मना नहीं किया जा सकता । अंत में उन्होंने निम्न न्यायिक दृष्टांतों का अवलंब लेते हुए तर्क दिया कि अप्रार्थीगण द्वारा पारित आदेश दि.31.5.17 को निरस्त व अपास्त किया जावे । साथ ही प्रार्थीया को दि.19.9.08 से पुनः बहाली के आदेश पारित किये जावे और पुनः बहाली की दिनांक से पुनः नौकरी दिये जाने तक समस्त वेतन परिलाभ व अन्य समस्त लाभ व उन पर देय ब्याज भी दिलवाया जावे :-

1— देवेंद्रसिंह बनाम म्युनिसिपल कॉरपोरेशन सांसोर अपील सं.3190/11 निर्णय दि.11.4.11,

2—ऑयल एंड नेचुरल गैस कारपोरेशन बनाम कृष्ण गोपाल व अन्य निर्णय दि.7.2.2020 माननीय उच्चतम न्यायालय,

3—यूनियन बैंक ऑफ इंडिया बनाम मुजाहिद कोसीन माननीय दिल्ली उच्च न्यायालय निर्णय दि.4.12.2020 ।

7. अप्रार्थीगण की ओर से मौखिक बहस की गयी तथा जवाब क्लेम याचिका के तथ्यों की पुनरावृत्ति करते हुए तर्क दिया गया कि स्वयं प्रार्थीया ने अपनी जिरह में स्वीकार किया है कि उसे बैंक की ओर से कोई नियुक्ति पत्र नहीं मिला , बैंक में चयन प्रक्रिया होती है । उसे अस्थाई तौर पर रखने का कोई कागज नहीं दिया । उसने बैंक में साढ़े नौ बजे

से सायं छः बजे तक काम करने बाबत कोई दस्तावेज पेश नहीं किया। बैंक के समस्त स्टाफ को दिन भर में सात-आठ बार चाय बनाकर सर्व करने बाबत कोई दस्तावेज पेश नहीं किया गया। गवाह ने जिरह में यह भी स्वीकार किया है कि बैंक का समस्त स्टाफ जितनी बार चाय मांगते थे उनका भुगतान समस्त कर्मचारी अलग अलग करते थे। नकद में भुगतान करते थे, महीने के अंत में करते थे। कभी स्टाफ नकद देता था कभी खाते में अंतरित कर देते थे। अप्रार्थीगण की ओर से यह भी तर्क दिया गया कि दस्तावेज प्रदर्श एम-1 टर्मिनेशन पत्र प्रार्थीया को न देकर नेमीचंद पाराशर को दिया गया था परंतु प्रार्थीया ने उस पर अपने नाम की पर्ची लगाकर फर्जी दस्तावेज तैयार किया है। बैंक को काम की जरूरत होती थी तभी दो-तीन घंटे बुलाया जाता था। प्रार्थीया ने जो टर्मिनेशन लेटर प्रदर्श डब.3 पेश किया है वह बैंक द्वारा नहीं दिया जाकर हाउस कीपिंग सर्विस कंपनी द्वारा दिया गया है। प्रदर्श डब.3 फर्जी तैयार किया गया है। प्रार्थीया ने किराना की दुकान करना स्वीकार किया है। बैंक में कस्टमर्स के लिए फंड होता है जिसके भुगतान के लिए प्रदर्श डब.39-से डब.49 जारी किये हैं। वेलफेयर कमेटी द्वारा भुगतान किया जाता है। अप्रार्थी बैंक के यहां कैंटीन ब्याय का कोई पद नहीं है। प्रार्थीया की ओर से ए डब.2 गवाह पेश किया गया है वह लडियाना का निवासी है। जबकि बैंक विजयनगर में स्थित है। ए.डब.2 ने अपनी जिरह में पेज नं.2 के अंतिम पैरा में नेमीचंद को नहीं जानने, नेमीचंद के साथ गाड़ी में बैठकर आने, कल्पना देवी के लिये बयान देने के लिए आना, कोर्ट से बाहर नेमीचंद से कोई बात नहीं करने, आदि जो कथन किये हैं, वे कथन प्रकृति के सामान्य अनुक्रम में अस्वाभाविक हैं, जिन पर विश्वास नहीं किया जा सकता। प्रार्थीया यह बात साबित करने में असफल रही है कि उसने एक साल में 240 दिन तक अप्रार्थी के यहां लगातार कार्य किया है। उनका यह भी तर्क रहा है कि बैंक में कर्मचारी या अधिकारी की नियुक्ति हेतु एक निश्चित प्रक्रिया होती है। जो पूर्ण करने के पश्चात् ही चयन किया जाता है। प्रार्थीया के लिए कोई प्रक्रिया अपनायी गयी हो, ऐसी कोई साक्ष्य पत्रावली पर नहीं है। बैंक में किसी भी प्रकार के आकस्मिक कार्य की मजदूरी के लिए वाउचर के जरिये भुगतान करने की व्यवस्था है। प्रार्थीया से आकस्मिक कार्य जो भी कराया उसका वाउचर के जरिये भुगतान किया गया है। बैंक में न तो कैंटीन होती है न कैंटीन बॉय का पद है। प्रार्थीया द्वारा प्रस्तुत चैक बैंक द्वारा जारी न कर स्टाफ वेलफेयर कमेटी द्वारा जारी किये गये हैं। प्रार्थीया की अप्रार्थी द्वारा नियुक्ति ही नहीं की गयी तो उसे हटाने का कोई प्रश्न ही पैदा नहीं होता। प्रार्थीया व अप्रार्थी के मध्य कर्मकार व नियोजक का संबंध प्रमाणित नहीं है न ही प्रार्थीया की नियुक्ति प्रमाणित है न ही प्रार्थीया का लगातार बारह माह में 240 दिन तक कार्य करना प्रमाणित है। अंत में उन्होंने प्रार्थीया का स्टेटमेंट ऑफ क्लेम सव्यय खारिज करने का तर्क दिया।

8. प्रार्थीया की ओर से प्रस्तुत लिखित बहस का अवलोकन किया गया। अप्रार्थीगण की ओर से दिये गये मौखिक तर्कों पर मनन किया गया पत्रावली का ध्यानपूर्वक अवलोकन किया गया। दोनों पक्षों की ओर से प्रस्तुत न्यायिक दृष्टांतों का ससम्मान अध्ययन किया गया। हस्तगत प्रकरण में तनकीवार अधिकरण का विनिश्चय निम्न प्रकार है:-

तनकी संख्या-1, 2 एवं 3:-

9. उक्त तनकियों को सिद्ध करने का भार प्रार्थीया पर रहा है। उक्त तीनों तनकियां एक-दूसरे से संबंधित होने के कारण एवं साक्ष्य की पुनरावृत्ति को रोकने के लिए उक्त तीनों तनकियों का निस्तारण एक साथ किया जा रहा है। प्रार्थीया द्वारा स्टेटमेंट ऑफ क्लेम में यह अभिवचन किये गये हैं कि उसकी नियुक्ति अप्रार्थी सं.3 के यहां दि.19.9.08 को अस्थाई मैसेंजर एवं कैंटीन बॉय के पद पर की गयी थी। प्रार्थीया से रिकॉर्ड रूम में हैल्पर का काम, अधीनस्थ कर्मचारियों का कार्य, समस्त स्टाफ के लिए चाय बनाकर सर्व करने का कार्य व अन्य कार्य करवाये जाते थे। प्रार्थीया को प्रत्येक माह कैंटीन बॉय के कार्य का भुगतान मानदेय राशि में चैक द्वारा किया जाता था। प्रार्थीया के मैसेंजर के कार्य का भुगतान डे-टुडे बेसिक के आधार पर चार्जज वाउचर एवं प्रार्थीया द्वारा बनाये गये बिलों का भुगतान पेटी कैश से किया जाता था। प्रार्थीया को बिना किसी आरोप, जांच कार्यवाही किये बिना प्राकृतिक न्याय के सिद्धांतों की अवहेलना करते हुए अप्रार्थी सं.3 ने अपने पत्र क्रमांक बी एम नं.217-18/06 दि.31.5.17 के जरिये बैंक सेवाओं से पृथक् कर दिया। प्रार्थीया ने अपने मुख्य परीक्षण के शपथ पत्र के जरिये स्टेटमेंट ऑफ क्लेम के तथ्यों की ही पुनरावृत्ति की है। अप्रार्थीगण की ओर से की गयी जिरह में प्रार्थीया ने कथन किया है कि उसे बैंक की ओर से कोई नियुक्ति पत्र नहीं मिला है। गवाह ने इस सुझाव को भी स्वीकार किया है कि बैंक में चयन प्रक्रिया से होता है। फिर स्वतः कहा कि उसे इस बात की जानकारी नहीं है। बैंक ने उसे अस्थाई रूप से रखा था। जिसका कोई कागज नहीं है। गवाह ने इस सुझाव को स्वीकार किया है कि बैंक द्वारा उसे अस्थाई मैसेंजर एवं कैंटीन बॉय के पद पर नियुक्त करने का कोई दस्तावेज नहीं दिया। बैंक में साढ़े नौ बजे से साढ़े छः बजे तक काम करने बाबत कोई दस्तावेज पेश नहीं किया। गवाह ने इस सुझाव को स्वीकार किया है कि बैंक का समस्त स्टाफ जितनी बार चाय मांगता था उसका भुगतान बैंक कर्मचारी अलग अलग नकद में करते थे। प्रदर्श डब.3 बैंक ने उसे दिया था। जो असल पेश किया है। गवाह ने प्रदर्श एम-1 व प्रदर्श डब.3 दोनों को देखकर जाहिर किया है कि अंकित तारीख क्रमांक एक ही है। दि.31.5.17 के संदर्भ में उसके द्वारा बैंक को कोई नाटिस नहीं दिया गया। प्रदर्श एम-1 पत्र राजेंद्र मैनेजमेंट ग्रुप ने नेमीचंद को दिया हो तो उसे उसकी जानकारी नहीं है। गवाह ने प्रदर्श एम-2 खुद का आवेदन पत्र तथा स्वयं द्वारा भरा जाना स्वीकार किया है तथा उस पर ए से बी हस्ताक्षर व सी से डी स्वयं का फोटो भी स्वीकार किया है। गवाह ने इस सुझाव से इंकार किया है कि जो ऋण उसने लिया था उससे सामान कय किया हो। गवाह ने इस सुझाव को स्वीकार किया है कि उसने किराने का व्यवसाय के लिए किराने का सामान कय के लिए ऋण लिया था जिस पर बैंक ने उसका ऋण स्वीकृत किया था। प्रदर्श एम-3 में वर्णित सामान ग्रह कार्य हेतु खरीद किया था। उसने जो सामान खरीदा था प्रदर्श एम-3 व एम-5 हैं, जो दुकानदार ने दी है। गवाह ने इस सुझाव को भी स्वीकार किया है कि वह छोटा मोटा किराने का व्यवसाय करती है। प्रदर्श डब.8 से डब.21 उसने बैंक

को कैरोसीन दिलाने हेतु बैंक को लिखा था । प्रदर्श डब.22 से 38 तक बैंक में पीने का पानी सप्लाई किया उसका बिल पेश किया था । प्रदर्श डब.39 से डब.49 के जो चैक उसके नाम से है उक्त समस्त चैक स्टाफ वेलफेयर कमेटी प्रेसीडेंट व सैक्रेट्री द्वारा जारी चैक उसके नाम से है उक्त चैक बैंक मैनेजर ने दिया है । बैंक किसी भी व्यक्ति से काम कराती है तो उसका भुगतान वाउचर से किया जाता है । डेली वेजेज करने वालों का कोई हाजरी रजिस्टर नहीं होता । इसलिए उसके द्वारा कोई हाजरी नहीं भरी जाती थी । साथ ही गवाह ने इस सुझाव से इंकार किया है कि बैंक द्वारा आवश्यकतानुसार कार्य करवाया गया हो और उसी समय मजदूरी का भुगतान कर दिया गया हो । उसने वाउचर इकट्ठे करने, चाय पिलाने, रिकार्ड रूम जमाने, नोट बांधने, नोटों में पर्चियां लगाने, नोटों को स्ट्रांग रूम में रखने, लॉन की फाईल लाने-ले जाने आदि कार्यों के संबंध में कोई दस्तावेज पेश नहीं किया है ।

10. प्रार्थीया के मामले के समर्थन में ए डब.2 गोपालसिंह उपस्थित होकर परीक्षित हुआ है। जिसने जरिये शपथ पत्र मुख्य परीक्षण में कथन किया है कि उसका भारतीय स्टेट बैंक में बचत खाता है । बैंक संबंधी कार्य हेतु वह बैंक में जाता रहता है । कल्पना पाराशर को वह जानता है क्योंकि वह इसी बैंक में मैसेंजर कम कैंटीन बॉय के पद पर काम करती थी । उसने भरत शर्मा मैनेजर से कल्पना के पद के बारे में पूछताछ की थी तो उन्होंने मैसेंजर कम कैंटीन बॉय के पद पर कार्यरत होना बताया था । कल्पना सुबह साढ़े नौ बजे से सायं छः बजे तक काम करती थी । दि. 31.5.17 को किसी काम से शाम छः बजे बैंक गया था तब कल्पना व भरत शर्मा के कहा सुनी हो रही थी । मैनेजर ने बताया था कि कल्पना को सेवामुक्त कर दिया है ।
11. जिरह में इस गवाह ने कथन किया है कि कल्पना को वह दस सालों से जानता है। बैंक में आता जाता रहता है । इसलिए जानता है । उसकी जानकारी में नहीं है कि कल्पना व्यवसाय करती है या नहीं लेकिन सुबह से शाम तक बैंक में देखता था । मैं रोज बैंक में नहीं जाता कई बार शाम को आता था कई बार सुबह को आता था । पूरे दिन बैंक में नहीं रहता था । वह कल्पना के पति को नहीं जानता । दि.31.5.17 को मैंने भरत शर्मा से पूछा कि यह किस पद पर कार्यरत है क्योंकि उनके आपस में बहस हो रही थी । गवाह ने इस सुझाव को स्वीकार किया है कि वह बैंक में रोज नहीं जाता था इसलिए कल्पना रोज बैंक जाती हो, इस बात को वह नहीं बता सकता लेकिन जब जब बैंक गया कल्पना को देखा था । बैंक में चपरासी, बाबू व मैनेजर की नियुक्ति से पूर्व परीक्षा व इंटरव्यू होता है । इसकी उसे जानकारी नहीं है। भरत शर्मा व कल्पना के मध्य जब बहस हो रही थी तब वह बीच में पहुंचा उक्त बहस किसी पत्र पर हस्ताक्षर कराने के बारे में हो रही थी । वह पत्र उसने नहीं पढ़ा । कल्पना की नौकरी करने बाबत नियुक्ति पत्र नहीं देखा । नेमीचंद क्या करते हैं वह नहीं जानता । नेमीचंद को नहीं जानता कल्पना व उसके साथ कौन है इनको नहीं जानता । गवाह ने न्यायालय कक्ष में उपस्थित व्यक्ति को देखकर कहा कि वह इसी के साथ आया है जिस पर न्यायालय द्वारा उपस्थित व्यक्ति का नाम पूछा गया तो उस व्यक्ति ने अपना नाम नेमीचंद बताया है। आगे गवाह ने कथन किया है कि वह उनके साथ विजयनगर से नेमीचंद की गाड़ी में साथ ही आये हैं । अजमेर से विजयनगर सत्तर किमी. है । उसने कोर्ट से बाहर नेमीचंद से कोई बात नहीं की । गवाह ने आगे कथन किया है कि उसे जानकारी नहीं है कि कल्पना बैंक में नौकरी नहीं करती हो और बैंक में कर्मचारियों को जल-पान व नाश्ता आदि कराने आती हो ।
12. बचाव में अप्रार्थीगण की ओर से एन ए डब.1 प्रमोद कुमार को पेश कर परीक्षित करवाया गया है । उक्त गवाह ने मुख्य परीक्षण में जवाब क्लेम याचिका के तथ्यों की पुनरावृत्ति करते हुए जिरह में कथन किया है कि दि.19.2.08 को वह ब्रांच मैनेजर की हैसियत से कार्यरत नहीं था उसने सन् 2018 के आस पास ज्वाइन किया था लेकिन उससे पूर्व की जानकारी बैंक स्टाफ के संबंध में उसे बैंक के पूर्व ब्रांच मैनेजर भरत जी ने दी थी । बैंक में मैसेंजर का पद स्थाई होता है । उसकी नियुक्ति के लिए पूरी प्रक्रिया की पालना की जाती है। उसको एक एप्लॉयी कोड जारी किया जाता है। चाय बनाकर पिलाने के लिए रोजाना की मजदूरी उसके द्वारा बनाकर दी जाने वाली चाय के आधार पर दी जाती है। प्रदर्श एम-1 पूर्व मैनेजर द्वारा जारी किया गया था । प्रदर्श एम-1 व्यक्तिगत दिया गया था जिसका उल्लेख डिस्चार्ज रजिस्टर दि.31.5.17 के पेज नं.82 पर है प्रदर्श एम-1 जरिये डाक प्रेषित नहीं किया था लेकिन मेल किया था जो सेवा प्रदाता एजेंसी को किया था । गवाह ने इस सुझाव से इंकार किया है कि उक्त शाखा में उसके पदस्थापन से पूर्व प्रार्थीया मैसेंजर का कार्य करती रही हो बल्कि प्रार्थीया चाय पिलाने का कार्य करती थी ।
13. इस प्रकार पत्रावली पर आयी दोनों पक्षों की मौखिक एवं दस्तावेजी साक्ष्य से यह पाया जाता है कि प्रार्थी की ओर से प्रस्तुत प्रदर्श डब.7 लगायत प्रदर्श डब.21 के बदले प्रार्थीया को कैरोसीन तेल का भुगतान किया गया है । इसी प्रकार प्रदर्श डब.22 लगायत डब.38 के बदले पीने के पानी का भुगतान किया गया है । प्रदर्श डब.39 लगायत डब.49 के संबंध में स्वयं प्रार्थीया ने कथन किया है कि उक्त चैक उसके नाम से है जो समस्त चैक स्टाफ वेलफेयर कमेटी के प्रेसीडेंट, सैक्रेट्री के द्वारा जारी है ।
14. प्रार्थीया की ओर से दस्तावेज प्रदर्श डब.1 व डब.2 केंद्रीय श्रम आयुक्त के समक्ष प्रस्तुत समझौता कार्यवाही व प्रमाण पत्र पेश कर प्रदर्शित करवाये गये हैं। प्रदर्श डब.3 प्रार्थीया ने सेवा से टर्मिनेशन पत्र बैंक द्वारा प्रार्थीया को जारी करना बताते हुए पेश कर प्रदर्शित करवाया गया है । जबकि बचाव में बैंक द्वारा प्रदर्श एम-1, एम-9, एम-7 व एम-8 पेश कर प्रदर्शित करवाये गये हैं । प्रदर्श एम-1 के अवलोकन से प्रकट होता है कि दि.31.5.17 को अप्रार्थी ने पत्र क.बीएम नं.2017-18/16 नेमीचंद पाराशर को इस आशय का जारी किया है कि हाउस कीपिंग सर्विस के लिए राजेंद्र मैनेजमेंट ग्रुप से टाई-अप किया जावे । प्रदर्श एम-9 के अवलोकन से प्रकट होता है कि अप्रार्थी द्वारा दि.26.7.17 को 11.25 ए एम पर मीनाक्षी तंवर को मेल किया गया है, जो नेमीचंद पाराशर के टर्मिनेशन एवं मनोज बोहित के अपाइंटमेंट के लिए जारी किया गया है । परंतु यह मेल प्रार्थीया द्वारा अपने टर्मिनेशन की आरोपित दि.31.5.17 के

बाद का है। प्रदर्श एम-9 के अवलोकन से प्रकट होता है कि राजेंद्र मैनेजमेंट ग्रुप द्वारा दि.30.5.17 को 3.12 पी एम पर अप्रार्थी को नेमीचंद पाराशर के टर्मिनेशन एवं मनोज बोहित के अपाइंटमेंट के विषय में मेल किया गया है। इस प्रकार यह मेल प्रार्थीया द्वारा अपनी सेवा समाप्ति की आरोपित दि.31.5.17 से पहले का है। अप्रार्थीगण की ओर से पेश प्रदर्श एम-7 के अवलोकन से भी प्रकट होता है कि अप्रार्थी द्वारा राजेंद्र मैनेजमेंट ग्रुप को दि.26.5.17 को 9.00 ए एम पर नेमीचंद पाराशर के टर्मिनेशन एवं मनोज बोहित के अपाइंटमेंट के संबंध में मेल किया जा चुका था। इसी प्रकार प्रदर्श एम-8 के अवलोकन से प्रकट होता है कि अप्रार्थी एवं राजेंद्र मैनेजमेंट के बीच दि.1.11.16 को इस बात का इकरारनामा हो चुका था कि राजेंद्र मैनेजमेंट ग्रुप अप्रार्थी बैंक को मेन पावर उपलब्ध करवायेगा तथा हाउस कीपिंग स्टाफ भी उपलब्ध करवायेगा। इस प्रकार बचाव पक्ष की ओर से प्रस्तुत दस्तावेजात् के अवलोकन से यह तथ्य उभरकर आता है कि अप्रार्थी बैंक एवं राजेंद्र मैनेजमेंट ग्रुप के बीच 2016 में ही इस बात का इकरारनामा हो चुका था कि हाउस कीपिंग स्टाफ एवं मेन पावर राजेंद्र मैनेजमेंट ग्रुप द्वारा उपलब्ध करवाया जावेगा तो ऐसी परिस्थितियों में प्रार्थीया का अप्रार्थीगण के यहां वर्ष 2017 तक नियुक्ति के आधार पर कार्य करना विश्वसनीय प्रतीत नहीं होता है। प्रार्थीया की ओर से ऐसा कोई दस्तावेज पेश नहीं किया गया है, जिससे यह प्रकट हो कि उसकी अप्रार्थी के यहां रोजाना हाजरी दर्ज होती थी या उसने एक वर्ष में तथा बारह महीनों में लगातार 240 दिन या उससे अधिक दिन तक कार्य किया हो। प्रार्थीया ने जिरह में स्वयं स्वीकार किया है डेली वेजेज करने वालों का कोई हाजरी रजिस्टर नहीं होता इसलिए उसके द्वारा कोई हाजरी नहीं भरी जाती थी। बैंक की ओर से नियुक्ति पत्र नहीं मिला है। बैंक में चयन प्रक्रिया होती है। अस्थायी तौर पर रखने का कोई दस्तावेज नहीं है। बैंक ने उसे अस्थायी मैसेंजर एवं कैंटीन बॉय के पद पर नियुक्त करने बाबत कोई दस्तावेज नहीं दिया। उसने बैंक में सुबह साढ़े नौ बजे से सायं साढ़े छः बजे तक काम करने बाबत कोई दस्तावेज पेश नहीं किया। उसने किराने के व्यवसाय के लिए किराने का सामान कय करने के लिए ऋण लिया था जिस पर बैंक ने ऋण स्वीकार किया था। प्रार्थीया ने यह भी स्वीकार किया है कि वह छोटा-मोटा किराने का व्यवसाय करती है। घर पर किराने का काम करती है। प्रार्थीया की ओर से उपस्थित गवाह ए डब.2 गोपाल सिंह ने जिरह में स्वीकार किया है कि वह बैंक रोज नहीं आता है। गवाह ने इस सुझाव को भी स्वीकार किया है कि वह बैंक में रोज नहीं जाता इसलिए ये नहीं बता सकता कि कल्पना रोज बैंक जाती हो।

15. जहां तक प्रदर्श डब.3 का प्रश्न है, अप्रार्थीगण ने इसे फर्जी होना बताया है और ये पत्र प्रार्थीया के स्थान पर नेमीचंद को देना बताया है इस संबंध में अप्रार्थीगण ने प्रदर्श एम-1 व एम-6 पेश कर प्रदर्शित करवाये है। उक्त दस्तावेजों के अवलोकन से प्रकट होता है कि प्रदर्श डब.3 का कोई डिस्पैच नंबर या प्राप्ति के संबंध में कोई दस्तावेज पत्रावली पर नहीं है जबकि प्रदर्श एम-1 नेमीचंद को देने के संबंध में प्रदर्श एम-6 पेश किया गया है जिसके अवलोकन से प्रकट होता है कि दिनांक 31.5.17 को नेमीचंद को बाई हैंड पत्र दिया गया है। इस प्रकार अप्रार्थीगण द्वारा दिनांक 31.5.17 को प्रदर्श एम-1 नेमीचंद को दिया जाना प्रमाणित होता है। अतः पत्रावली पर आयी दोनों पक्षों की मौखिक एवं दस्तावेजी साक्ष्य से यह पाया जाता है कि प्रार्थीया को अप्रार्थी द्वारा दि.19.9.08 को या उसके पश्चात् कभी भी मैसेंजर एवं कैंटीन बॉय के पद पर नियुक्ति नहीं दी गयी
16. प्रार्थीगण की ओर से न्यायिक दृष्टांत *देवेंद्रसिंह बनाम म्युनिसिपल कॉरपोरेशन सांसोर अपील सं.3190/11 निर्णय दि. 11.4.11*, में माननीय उच्चतम न्यायालय द्वारा सिद्धांत प्रतिपादित किया गया है कि:—
 12. "Section 2(s) contains an exhaustive definition of the term 'workman'. The definition takes within its ambit any person including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward and it is immaterial that the terms of employment are not reduced into writing. The definition also includes a person, who has been dismissed, discharged or retrenched in connection with an industrial dispute or as a consequence of such dispute or whose dismissal, discharge or retrenchment has led to that dispute. The last segment of the definition specifies certain exclusions. A person to whom the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957, is applicable or who is employed in the police service as an officer or other employee of a prison or who is employed mainly in managerial or administrative capacity or who is employed in a supervisory capacity and is drawing specified wages per mensem or exercises mainly managerial functions does not fall within the definition of the term 'workman'.
 13. The source of employment, the method of recruitment, the terms and conditions of employment/contract of service, the quantum of wages/pay and the mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act.
 14. It is apposite to observe that the definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only a person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman.
 15. Whenever an employer challenges the maintainability of industrial dispute on the ground that the employee is not a workman within the meaning of Section 2(s) of the Act, what the Labour Court/Industrial Tribunal is required to consider is whether the person is employed in an industry for hire

or reward for doing manual, unskilled, skilled, operational, technical or clerical work in an industry. Once the test of employment for hire or reward for doing the specified type of work is satisfied, the employee would fall within the definition of 'workman'.

24. We are also convinced that the reasons assigned by the High Court for setting aside the award of reinstatement are legally untenable. In the first, it deserves to be noticed that the respondent had engaged the appellant in the back drop of the ban imposed by the State Government on the filling up of the vacant posts. The respondent had started a water supply scheme and for ensuring timely issue of the bills and collection of water charges, it needed the service of a clerk. However, on account of the restriction imposed by the State Government, regular recruitment was not possible. Therefore, resolution dated 27.04.1995 was passed for engaging the appellant on contract basis. The relevant portions of the resolution are extracted below:

"MUNICIPAL COUNCIL, SANAUR, (PATIALA). COPY OF RESOLUTION NO.30 DATED 27.04.1995 It has been informed by the office to the house that one vacancy of Clerk in the office of Municipal Council, Sanaur is being vacant to the water supply branch. Due to ban imposed by the Punjab Government vacancy cannot be filled in at present. Municipal Council is operating two tubewells and is directly supplying water to the general public. At present Municipal Council is operating two tubewells and is directly supplying water to the general public. Municipal Council has given about 1500 water connections. In respect of issuance of water bills and their respective deposit there is need of one Clerk. This vacancy can be filled in after receiving sanction from the government. Therefore at present for the working of the office business as per the instruction of the Government, sanction may kindly be accorded for employing a person as Clerk on contract basis on the consolidated salary of Rs. One thousand per month. This matter was discussed seriously by the house because to provide water to the general public in the summer season is very essential. Therefore, to run smoothly - the work of water supplying Shri Devinder Singh son of .Shjri Hazura Singh of Mohalla kania, Sanaur is hereby engaged for a period of six months on contract basis on a consolidated salary of Rs. One thousand with effect from 02.05.1995. Resolution was unanimously passed.

Sd/- President Minicipal Council, Sanaur Patiala

25. In furtherance of the aforesaid resolution, the respondent engaged the appellant, who was already in its employment, as a Clerk for a period of six months on contract basis on consolidated salary of Rs. 1,000/- per month. At the end of six months, the respondent passed another resolution dated 30.11.1995 and again employed the appellant for a period of six months from 1.11.1995 to 20.4.1996. This exercise was repeated in 1996 and the appellant's term was extended for six months from 1.5.1996. However, his engagement was discontinued w.e.f.30.9.1996 without giving any notice or pay in lieu thereof and compensation as per the requirement of clauses (a) and (b) of Section 25-F of the Act. It is true that the engagement of the appellant was not preceded by an advertisement and consideration of the competing claims of other eligible persons but that exercise could not be undertaken by the respondent because of the ban imposed by the State Government. It is surprising that the Division Bench of the High Court did not notice this important facet of the employment of the appellant and decided the writ petition by assuming that his appointment/engagement was contrary to the recruitment rules and Articles 14 and 16 of the Constitution. We may also add that failure of the Director, Local Self Government, Punjab to convey his approval to the resolution of the respondent could not be made a ground for bringing an end to the engagement of the appellant and that too without complying with the mandate of Section 25-F(a) and (b).

26. The other reason given by the High Court is equally untenable."

17. प्रार्थीगण की ओर से पेश अन्य न्यायिक दृष्टांत *ऑयल एंड नेचुरल गैस कारपोरेशन बनाम कृष्ण गोपाल व अन्य निर्णय दि.7.2.2020* माननीय उच्चतम न्यायालय, में माननीय उच्चतम न्यायालय द्वारा सिद्धांत प्रतिपादित किया गया है कि :-

"24 The decision in PCLU needs to be revisited in order to set the position in law which it adopts in conformity with the principles emerging from the earlier line of precedent. More specifically, the areas on which PCLU needs reconsideration are:

- (i) The interpretation placed on the provisions of clause 2(ii) of the Certified Standing Orders;
- (ii) The meaning and content of an unfair labour practice under Section 2(ra) read with Item 10 of the Vth Schedule of the ID Act; and
- (iii) The limitations, if any, on the power of the Labour and Industrial Courts to order regularisation in the absence of sanctioned posts. The decision in PCLU would, in our view, require reconsideration in view of the above decisions of this Court and for the reasons which we have noted above.

25 We accordingly request the Registry to place the proceedings before the Hon'ble Chief Justice of India so as to enable His Lordship to consider placing this batch of appeals before an appropriate Bench."

18. माननीय दिल्ली उच्च न्यायालय ने न्यायिक दृष्टांत 2017 एलएलआर 684 सुरेशपाल/दी मैनेजमेंट ऑफ म्युनिसिपल कार्पो. ऑफ इंडिया में यह अभिमत दिया है कि पूर्व के बारह कैलेंडर मास की कालावधि के दौरान 240 दिन लगातार काम करने के तथ्य को प्रमाणित करने का भार श्रमिक पर है यदि श्रमिक इसमें असफल होता है तो आई डी एक्ट 1947 की धारा 25एफ, जी, एच के प्रावधानों के तहत कोई अनुतोष पाने का अधिकारी नहीं है। माननीय राज 0 उच्च न्यायालय द्वारा न्यायिक दृष्टांत 2020 एल एल आर 534 छुट्टनलाल शर्मा बनाम रजिस्ट्रार राजस्थान यूनिवर्सिटी में यह मत दिया गया है कि ऐसा श्रमिक जिसने 240 दिन या उससे अधिक लगातार कार्य नहीं किया वह आई डी एक्ट के तहत कोई अनुतोष पाने का हकदार नहीं है। 2020 एल एल आर 11 भावनगर म्युनिसिपल कारपोरेशन बनाम अनिल बुद्धाभाई में माननीय गुजरात उच्च न्यायालय द्वारा यह मत दिया गया है कि यदि श्रमिक एक वर्ष में 240 दिन कार्य करने के तथ्य को दस्तावेजी साक्ष्य से प्रमाणित करने में असफल रहता है तो वह कोई अनुतोष पाने का अधिकारी नहीं है।
19. इसी प्रकार श्रमिक और नियोक्ता के संबंध के बिंदु पर 2019 एल एल आर पेज 1109 हिमाचल उच्च न्यायालय राकेश शर्मा बनाम इंडिया ऑयल कारपोरेशन एंड अनादर में यह मत दिया गया है कि नियोक्ता और कर्मकार का संबंध साबित करने का भार कर्मचारी पर है।
20. न्यायिक दृष्टांत 2020 एल एल आर 495 पटना हाईकोर्ट रामविनयसिंह बनाम दी चीफ जनरल मैनेजर एस बी आई में माननीय पटना उच्च न्यायालय द्वारा यह अभिमत दिया है कि नियोक्ता व कर्मचारी के संबंधों को सुदृढ़ साक्ष्य से साबित करने का भार वर्कमैन पर होता है और यदि श्रमिक इस संबंध को पर्याप्त साक्ष्य के द्वारा साबित करने में असफल रहता है तो वह कोई अनुतोष पाने का अधिकारी नहीं है।
21. इस प्रकार पत्रावली पर आयी दोनों पक्षों की मौखिक एवं दस्तावेजी साक्ष्य तथा उपरोक्त न्यायिक दृष्टांतों की रोशनी में तनकी सं. 1, 2 व 3 प्रार्थीया के विरुद्ध निर्णीत की जाती है क्योंकि प्रार्थीया की ओर से ऐसी कोई पर्याप्त सुदृढ़ दस्तावेजी साक्ष्य पत्रावली पर प्रस्तुत नहीं की गयी है जिससे यह साबित हो कि प्रार्थीया ने एक कैलेंडर वर्ष में 240 दिन या उससे अधिक दिन अप्रार्थी के यहां अस्थायी मैसेंजर एवं कैंटीन बॉय के रूप में कार्य किया हो और प्रार्थीया तथा अप्रार्थी के मध्य नियोक्ता व कर्मकार का संबंध रहा हो। प्रार्थीया की ओर से जो न्यायिक दृष्टांत में प्रस्तुत किये गये हैं उनसे मैं सहमत हूँ लेकिन तथ्यों की भिन्नता होने से प्रार्थीया के मामले को उनसे कोई लाभ नहीं मिलता है।
22. तनकी संख्या-4 अनुतोष :- चूंकि तनकी संख्या-1, 2 व 3 प्रार्थीया के विरुद्ध निर्णीत हुए हैं, इसलिए प्रार्थीया कोई अनुतोष प्राप्त करने की अधिकारी होना नहीं पायी जाती है। अतः प्रार्थीया द्वारा प्रस्तुत स्टेटमेंट ऑफ क्लेम उपरोक्तानुसार अस्वीकार कर खारिज किये जाने योग्य है।

—: आदेश —:

अतः प्रार्थीया कल्पना पाराशर द्वारा प्रस्तुत स्टेटमेंट ऑफ क्लेम दि. 20.11.2017 विरुद्ध अप्रार्थीगण उपरोक्तानुसार अस्वीकार कर खारिज किया जाता है। खर्चा पक्षकारान् अपना-अपना वहन करेंगे।

रामेश्वर प्रसाद चौधरी, न्यायाधीश,

23. अवार्ड लिखाया जाकर आज दिनांक 11.05.2022 को खुले न्यायालय हस्ताक्षर कर सुनाया गया। अवार्ड की प्रति नियमानुसार केंद्रीय सरकार कोवास्ते गजट में प्रकाशन प्रेषित की जावे।

नई दिल्ली, 5 जून, 2023

का.आ. 926.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन पोर्ट्स एसोसिएशन प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं 2 मुम्बई के पंचाट (12/2010) प्रकाशित करती है।

[सं. एल 39011/1/2009- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 5th June, 2023

S.O. 926.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.12/2010) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No-2 Mumbai as shown in the Annexure, in the industrial dispute between the management of Indian Ports Association and their workmen.

[No. L-39011/1/2009- IR(B-II)]

SALONI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI****Present:** LAXMI NARAIN JINDAL, Presiding Officer**REFERENCE NO. CGIT-2/12 of 2010****EMPLOYERS IN RELATION TO THE MANAGEMENT OF INDIAN PORTS ASSOCIATION**

Managing Director,
Indian Ports Association,
1st Floor, South Tower NBCC Place,
Bhisham Pitamah Marg, Lodhi Road,
Delhi – 110003.

AND**THEIR WORKMEN.**

President,
All India Port & Dock Workers Federation
P.D. Mello Bhawan, P.D. Mello Road,
Carnac Bunder,
Mumbai – 400 038.

APPEARANCES:

FOR THE EMPLOYER	:	Mr. Umesh Nabar, Advocate
FOR THE WORKMEN UNION	:	Mr. Baban Y. Mete, Secretary with Shri Jaiprakash Sawant Advocate.

Dated the 2nd March, 2023.**AWARD**

1. This reference has been made by the Central Government in exercise of its powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. L-39011/1/2009 – IR (B-II) dated 12.01.2010. The terms of reference given in the schedule are as follows :

“Whether the contentions of the All India Port & Dock Workers Federation that Interim Relief Paid between 1.1.1986 to 31.12.1987 was not absorbed in the wage structure w.e.f. 1.1.1988 as per Clause 6 of the Settlement dated 12.6.1989 is correct. What relief are the workmen entitled ?”

2. After receipt of the reference, both the parties were served with the notices and they appeared and filed their respective pleadings. When the case was pending for evidence of the workmen union, Shri Baban Y. Mete, Secretary, Transport & Dock Workers Union, for the second party, filed an application to the effect that he did not wish to pursue the present reference. His statement was recorded to the following effect:

“It is stated that the Transport & Dock Workers Union does not wish to pursue the present reference and ‘no dispute’ award may be passed. The said union has also filed a formal application in this regard.”

3. On the other hand, Shri Umesh, Nabar, Advocate for the management has also made the following statement:

“It is stated that I have heard the above statement of Shri Baban Y. Mete, Secretary, Transport & Dock Workers Union, for the second party. I have no objection if the present reference is answered accordingly.”

4. In view of the above statements, 'no dispute' award is passed in the present reference.

Sd/-

March 02, 2023

LAXMI NARAIN JINDAL, Presiding Officer

नई दिल्ली, 5 जून, 2023

का.आ. 927.— औद्योगिक विवाद अधिनियम, 1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक प्रबंध तंत्र के सबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण पटना के पंचाट संदर्भ संख्या ; 06 (C) of 2017) को प्रकाशित करती है।

[सं. एल- 12011/20/2017- आई आर (बी-II)]

सलोनी उप निदेशक

New Delhi, the 5th June, 2023

S.O. 927.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (06 (C) of 2017) of the *Industrial Tribunal-cum-Labour Court Patna* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. 12011/20/2017– IR(B-1I)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference Case No. :- 06 (C) of 2017

Between the management of State Bank of India, Local Head Office, Patna and their workmen Smt. Kanti Devi, represented through the President, Bank Employees Federation, Saboo Complex, 2nd Floor, Behind Republic Hotel, Exhibition Road, Patna-1.

For the management:- Sri Rashmi Rathi Sharma, Manager, Law of SBI.

For the Workman:- Sri B. Prasad, President, Bank Employees Federation.

Present:- Manoj Shankar
Presiding Officer,
Industrial Tribunal, Patna.

AWARD

Patna, dated- the 28th April, 2023

By the adjudication order no.-L-12011/20/2017-IR(B-I) dated- 14.11.2017 the Govt. of India, Ministry of Labour, New Delhi has referred under clause (d) of sub-section-(1) and sub-section-(2A) of section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as “ the Act”), the following dispute between The management of Asstt. General Manager, State Bank of India, Local Head Office, West Gandhi Maidan, Patna (Bihar)- 800001 And Their workmen Smt. Kanti Devi, represented through the President, Bank Employees Federation, Saboo Complex, 2nd Floor, Behind Republic Hotel, Exhibition Road, Patna-1 for adjudication to this tribunal:-

SCHEDULE

“Whether the action of the management of State Bank of India, (Previously State Bank of Bikaner & Jaipur) Patna, in not regularizing services of Smt. Kanti Devi who has been working as temporary Part Time Sweeper in the bank continuously since 12.08.2010 is justified? If not, what relief the workmen concerned is entitled to?

2. Upon receiving the said reference, notices were issued to both the parties accordingly both the parties appeared before this tribunal and filed their statement of claim and written statement by the both sides respectively.

3. As per the statement of claim, the workman contention is that she was orally appointed w.e.f 12.08.2010 to discharge the duties as a Part Time Sweeper at Regional Office, Patna of the State Bank of Bikaner and Jaipur now

called State Bank of India after merger. After engagement in the Regional Office of the workman Smt. Kanti Devi has been discharging the following duties:-

- (a) Sweeping and cleaning the office premises;
- (b) Serving Water
- (C) Cleaning the Chairs, Tables etc;
- (d) Arranging files;
- (e) Other sundry works of a Sweeper;

She used to perform her duties from 8.00 A.M to 2.00 P.M for which she was initially paid wages @ Rs. 75/- per day, which was raised to @ Rs. 100/-, Rs. 125/-, Rs.150/-, Rs. 200/- per day and lastly @ Rs. 250/-. The payment of wages was made through different mode and some times through different names. It is further asserted that the workman has discharged duties for over 7 years to the best of her ability but her no any proper service condition. It is further asserted that during pendency of the proceedings before the ALC (C), Ministry of Labour & Employment, Govt. of India, the services of the workman got to be terminated w.e.f 22.08.2017. It is further asserted that the head office of the bank asked for the names of temporary / casual / daily rated worker performing the duties of Part Time Sweeper for proper consideration including regularization of their services, but the workman is not aware whether her name was forwarded by the Branch or not. It is further asserted in her claim that the duties of the workman were perennial in nature and her service has been utilized by the Regional Office against permanent vacant posts of Part Time Sweeper. The further claim is workman had been demanding regularization of the services but no positive step has been taken

by the management bank. Then the workman caused an Industrial Dispute raised before the conciliation officer. Who tried his level best to resolve the dispute during conciliation seating but the management bank did not ready to resolve the dispute, accordingly conciliation ended in failure. Ultimately this reference is sent before this Hon'ble Tribunal for adjudication. It is further asserted that action of the management constitutes unfair Labour Practices as per the provisions of Section 25 T read with Schedule V of the I.D.Act, 1947. The action of the management in not regularizing the services of Smt. Kanti Devi as Part Time Sweeper and terminating her services w.e.f 22.08.2017 is neither legal nor justified on the following grounds;

- (i) The management resorted to Unfair Labour Practice;
- (ii) The management did not follow the principle of Equal pay for Equal work;
- (iii) The management violated the provisions of Section 25F of the I.D.Act;

It is further asserted that workman has become over aged while working with the management, cannot get job anywhere and so she prays for the following relief;

- (A) Regularisation of services as a part Time Sweeper;
- (B) Reinstatement in the service of the Bank as a Part Time Sweeper on ½ scale wages of a class IV employee with full back wages.
- (C) Payment of dues wages from the date of his working;
- (D) Payment of a sum of Rs. 10,000/- for contesting the dispute and any other relief deems fit and proper.

4. On the other hand management filed written statement mentioning therein, the prayer of the workman is not at all maintainable either in law or in fact. It is further asserted that State Bank of Bikaner & Jaipur, by virtue of Ministry of Finance Notification No.- 156 (E) dated- 22.02.2017, amalgamated in the transferee Bank i.e State Bank of India w.e.f 1st April, 2017. It is further asserted the workman was never appointed as employee of the Bank and therefore, the question of termination of her service does not arise. Moreover, Industrial Dispute Act, 1947 u/s-2A empowered the individual workman to raise the dispute and no other workman nor any union can be a party to the dispute. Here Bank Employees Federation, Bihar had filed the dispute before the Regional Labour Commissioner (C), Patna u/s- 2(k) of the I.D.Act for regularization of service. However, the Bank Employees Federation is not empowered to raise dispute u/s- 2(A) of the I.D.Act. Since workman was never appointed by the Bank of any capacity therefore, Industrial dispute raised by the sponsoring union for regularization of the workman u/s-10 of the I.D.Act does not constitute an Industrial Dispute within the meaning of 2K of the I.D.Act. It is further asserted that the claim of the workman she was regularly performed her duties in the State Bank of Bikaner & Jaipur is totally incorrect. The facts is occasionally she did the job of cleaning bathroom and other work from time to time orally on requirement basis and she was paid wages accordingly. It is further asserted that no daily rated workman / casual worker has got any right to demand for regular employment, as the worker was never considered as employee of bank attracting the provision of section 25F as provision of section 25F is only applicable to a person selected and recruited in the bank. It is further asserted that there was never employer and employee relationship between the bank and Kanti Devi. It is further asserted the allegation regarding payment of service by the bank through different

modes are totally baseless and denied. It is further asserted that Kanti Devi was never appointed in the Bank in any post or capacity therefore, the question of not having proper service condition and termination of her service w.e.f 22.08.2017 does not arise. It is further asserted that transferor bank State Bank of Bikaner & Jaipur has issued a circular no.- PERS/16/2016 dated- 15.07.2016 in compliance of direction of Transferee Bank, State Bank of India. Circular was issued to know the position of temporary employee / casual labour as pre-merger exercise and simply name and other details of such persons were sought for. And there was no scope of recommendation while furnishing the detail by the branch. Moreover, the name of worker Kanti Devi was never forwarded by the bank in the light of said circular. It is further asserted that no daily rated worker / casual worker has any right to demand for regular employment. Management further asserted that Kanti Devi is not entitled to any claim made by her accordingly her claim is fit to be rejected.

Upon securitizing the pleading of the parties and terms of reference, the following points arise out for adjudication;

- (i) Whether the dispute raised is an Industrial Dispute defined u/s-2K of the I.D.Act, 1947.
- (ii) Whether the claim of Kanti Devi that she was engaged and perform the duties as Part Time Sweeper in Regional Office, Patna of State Bank of Bikaner & Jaipur from 12.08.2010 to 22.08.2017 on regular basis is correct.
- (iii) Whether the action of the management, not regularizing the service of Kanti Devi and later on terminating her service is legal and justified.
- (iv) What relief, Kanti Devi is entitled for.?"

FINDINGS

5. The points for determination (i) & (ii) are interlinked accordingly both the issues are taken up together for adjudication. Section- 2K of the I.D.Act defines Industrial Dispute “**industrial dispute” means any dispute or difference between employers and employer, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any persons;** to decide as whether the dispute has raised in this case is an Industrial Dispute it has to be examined as to whether Kanti Devi acquired the status of the workman or not. Section 2(S) defines the status of workman under Industrial Dispute Act. Section- 2(S) “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person;

- (i) Who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957); or
- (ii) Who is employed in the police service or as an officer or other employee of a prison; or
- (iii) Who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly or a managerial nature]

The definition of the workman clearly says any person employed in any industry whether skilled or unskilled work for hire or reward and terms of employment either express or implied it shows that Kanti Devi has discharged her duties as unskilled worker on getting oral appointment in the said bank as part time sweeper and she has been paid by the bank as a daily rated worker. As per section 2(S) of the I.D.Act, Kanti Devi attains, the status of the workman and that's why Kanti Devi raised the Industrial Dispute before appropriate authority with her claim of regularization of her service in the bank.

6. Both sides adduced oral and documentary evidence in support of their respective contention. Management examined two witnesses namely M.W-1 (Sri Shyam Kishore) and M.W-2 (Sri Satynnarayan Thakur) and on the other hand workman side examined only one witness namely W.W-1 (Kanti Devi) herself.

7. M.W-1 (Shyam Kishore) is Chief Manager vigilance in SBI, LHO. Who stated before this tribunal that Kanti Devi was never recruited in the bank rather she was engaged for the bank for cleaning the premises as and when required. He further stated that Kanti Devi was not a regular employee of the bank so she was not on roll of the bank and she was not getting fixed salary. In cross-examination, this witness categorically stated that he was also posted in the Regional Office of then State Bank of Bikaner & Jaipur Patna from 18.07.2016 to 30.08.2017 and he also admits that husband of Kanti Devi was the permanent employee of the said bank as part time sweeper and he also admits that her husband died in service. This witness also admits that payment was made to Kanti Devi either through cheque or voucher. This witness categorically stated in para-7 of the cross-examination he can't say the first day and the last day of the working of the Kanti Devi and he also can't say how many days the Kanti Devi worked in the bank. This witness also categorically stated in cross-examination that only Kanti Devi was working as a part time sweeper in the office of the bank from 12.08.2010 to 30.08.2017. He also admits that no other person has made any claim for doing the work of part time sweeper during the 12.08.2010 to 30.08.2017.
8. M.W-2 (Satyanarayan Thakur) is the AGM, ATM Net work deposited before this tribunal and admits that he was also posted at Regional Office of (SBBJ), Patna on 16.10.2015 prior to merger of the bank in State Bank of India. This witness also admits that that Kanti Devi was doing work of a part time sweeper in the bank and she has raised the dispute and put her claim for regularization. This witness also admits that Kanti Devi was working as a cleaning staff used to perform the job of the cleaning and sweeping but he can't say Kanti Devi has worked in the said office for the 07 (Seven) years. In cross-examination, this witness categorically stated Late Bajan Ram the husband of Kanti Devi was the employee of the bank as a part time sweeper and he died in his service. He also admits that in para-9 of cross-examination, there was no permanent part time sweeper during his tenure in the said Regional Office. This witness also admits he does not know the mode of payment given to the Kanti Devi but this witness prove the two photo copy of the cheque issued in the name of Kanti Devi by the Regional Office of State Bank of Bikaner & Jaipur dt- 21.04.2017 & 29.04.2017 regarding her payment as marked Ext.- W & W/1 respectively. This witness categorically admits that Kanti Devi used to receive her payment through his sub-ordinate officer and he also admits when the State Bank of Bikaner & Jaipur merged in the SBI in August 2017, the service of Kanti devi gets terminated.

In para 12 and 13 of his cross-examination, this witness categorically admits that he does not know the full facts of this case and he can't say the first and last working day of the Kanti Devi and further admits that he does not know whether Kanti Devi has received any retrenchment compensation or not.

In para-15 in cross-examination that this categorically admits that Kanti Devi used to perform her duties like a permanent part time sweeper.

9. On securitizing the evidence of both the witnesses of the management, this tribunal finds that both M.W-1 & M.W-2 admit this facts that Kanti Devi was serving as a temporary part time sweeper in the office of Regional Office in the State Bank of Bikaner & Jaipur, Patna from 2010 to 2017 and they also establish this fact that Kanti Devi was doing the job of cleaning and sweeping of the bank like a permanent part time sweeper. Both the witness also admits that Late Bajan Ram the husband of workman Kanti Devi was the permanent employee of the said bank and he worked as a permanent part time sweeper in the said bank, who died in his service and thereafter Kanti Devi started working as a temporary part time sweeper i.e never denied by the management bank. The management witness also admits that there was no permanent part time sweeper posted in the said bank when the Kanti Devi was working as a temporary service staff. The evidence of witness as produced by the bank clearly establish that there was need of part time sweeper in the bank when Late Bajan Ram the husband of Kanti Devi died and thereafter bank took the services of Kanti Devi as a part time sweeper in the bank. Cleaning and sweeping of works in any bank premises is essential and i.e perennial in nature that's why the bank Regional office of SBBJ, Patna took the services of Kanti Devi as a part time sweeper. The evidence of management witness satisfy the claim of the Kanti Devi.
10. On the other hand workman Kanti Devi examined herself to prove her claim. Kanti Devi deposited before this tribunal her husband Late Bajan Ram was permanent part time sweeper in the Regional Office of SBBJ, Patna and after his death she was appointed on companionship ground temporarily and she worked in the said bank from 12.08.2010 to 22.08.2017. She also stated that she used to work from 8.00 A.M to 2.00 P.M and she was working as cleaning staff of the said bank initially she got Rs.75 per day and lastly Rs. 250/- per day received per day. She stated before this tribunal that she was paid through cheque in her name and also in the name of Ashok Kumar, Pragaya Bharti and Kamta Singh, after withdrawal of the cash the same was paid to her. He also stated that Ashok Kumar was a peon of the bank, Kamta Singh has head peon and Pragaya Bharti was clerk in the said bank. She also stated in her evidence that some times, she received her payment of wages through the cheque issued by the bank in the name of Satyendra Narayan Singh (Peon), Predeep Kumar (Driver) of the bank. Santosh Kumar Sinha (Clerk of the bank) and she has filed photo copy of the cheques issued by the bank in the different names as stated by her for her payment and its original is still in possession of the bank. She also stated that she used to discharge the duties of the permanent Part Time sweeper during the period 12.08.2017 to 22.08.2017 and there was no any other sweeper posted in the said bank in that period. She further stated that she

got no notice for her termination of service and she did not given any retrenchment compensation. When she raised her dispute before the conciliation officer for regularization, then bank did not allow her to work further. This witness has been cross-examined at length by the management side but management side has been completely failed to discard her testimony. She was very much consistent in her cross-examination too regarding her claim as categorically stated in para-13 of cross-examination that after death of her husband, regional manager Sri Bhandari Ji orally appointed her for the cleaning service because there was no part time sweeper or full time sweeper posted in the bank. She also stated that AGM Thakur Shahab prevented her to continue service from 22.08.2017.

11. Besides the oral evidence the workman has filed 138 photo copy of the cheques in connection with her payment of wages. Some cheques are in the name of worker Kanti Devi. Some cheques are in the names of Rajesh Kumar, Kamta Singh, Satyendra Narayan Singh, Ashok Kumar, Pragaya Bharti issued by the bank.

Ext.-W & W/1 i.e issued by the bank in the name of Kanti Devi for her wages payment of dated- 21.04.2017 and 29.04.2017 i.e proved by the management witness M.W-2.

Ext.-W/2 photo copy of the cheque in the name of Kanti Devi of dt-15.04.2017.

Ext.-W/3 photo copy of 11 cheques issued by the Regional Manager, SBBJ, Patna in the name of Kanti Devi for her wages payment i.e dt- 08.08.2011, 11.08.2011, 02.08.2014, 04.07.2015, 11.07.2015, 17.07.2015, 25.07.2015, 04.08.2015, 08.08.2015 and 07.04.2017.

Ext.-W/4 photo copy of the two cheques in the name of Santosh Kumar of dt- 15.09.2016 and 29.10.2016.

Ext.-W/5- Two photo copy of cheques in the name of Rajesh Kumar of dt- 04.02.2017 & 07.10.2016.

Ext.-W/6- Photo copy of the two cheque issued by the bank in the name of Umesh Kumar dt- 20.08.2016 & 26.08.2016.

Ext.-W/7 photo copy of the cheque issued by the bank in the name of Kamta Singh.

Ext.-W/8- Photo copy of the four cheques issued by the bank in the name of Pradeep Kumar dt- 09.05.2015, 22.02.2014, 01.03.2014 & 27.06.2015.

Ext.-W/9 photo copy of the five cheques issued by the bank in the name of Santosh Kumar Singh of dt- 02.08.2016, 08.08.2016, 05.10.2016, 18.07.2016, 17.12.2016.

Ext.-W/10 photo copy of the nine cheques issued by the bank in the name of Satyendra Narayan Singh of dt- 20.12.2014, 07.02.2015, 14.02.2015, 21.02.2015, 28.02.2015, 24.03.2015, 04.04.2015, 11.04.2015, 16.05.2015.

Ext.- W/11 photo copy of the 12 cheques issued by the bank in the name of Ashok Kumar of dt- 18.09.2010, 25.09.2010, 09.10.2010, 11.11.2010, 04.02.2010, 18.12.2010, 10.01.2011, 29.01.2011, 14.02.2011, 19.02.2011, 02.03.2011 and 14.03.2011.

Ext.-W/12 photo copy of the 14 cheques issued by the bank in the name of Pragaya Bharti of dt- 27.01.2016, 22.10.2016, 05.12.2016, 23.12.2016, 31.12.2016, 13.01.2017, 10.02.2017, 12.01.2017, 18.02.2017, 24.02.2017, 10.03.2017, 18.03.2017, 24.03.2017, 31.03.2017.

Ext.-W/13 photo copy of the 71 cheques issued by the bank in the name of Ashok Kumar of dt-01.10.---, 23.04.2011, 02.05.2011, 23.05.2011, 11.06.2011, 25.06.2011, 16.07.2011, 30.08.2011, 19.09.2011, 01.10.2011, 15.10.2011, 05.11.2011, 24.12.2011, 07.01.2012, 28.01.2012, 12.03.2012, 17.03.2012, 24.03.2012, 15.05.2012, 26.05.2012, 23.07.2012, 27.06.2012, 27.08.2012, 08.09.2012, 13.10.2012, 20.10.2012, 15.09.2012, 06.10.2012, 26.10.2012, 03.11.2012, 10.11.2012, 05.12.2012, 10.12.2012, 22.12.2012, 03.01.2013, 05.01.2013, 12.01.2013, 19.01.2013, 28.01.2013, 02.02.2013, 18.02.2013, 02.03.2013, 09.03.2013, 23.03.2013, 06.04.2013, 13.04.2013, 27.04.2013, 08.06.2013, 15.06.2013, 29.06.2013, 06.07.2013, 20.07.2013, 27.07.2013, 13.08.2013, 02.09.2013, 14.09.2013, 07.10.2013, 24.09.2013, 30.09.2013, 22.10.2013, 26.10.2013, 16.11.2013, 23.11.2013, 03.12.2013, 13.12.2013, 14.12.2013, 28.12.2013, 21.01.2014, 01.02.2014, 15.02.2014.

12. On Scrutinizing the evidence of workman, this tribunal finds that the workman Kanti Devi was engaged orally in the year 2010 by the management bank after the death of her husband Bhajan Ram who was posted in the bank as permanent part time sweeper in the Regional Office of SBBJ, Patna. This tribunal further finds that workman was serving as a temporary part time sweeper in the said bank from the year 2010 to 2017 i.e and she received the wages payment through cheques issued by the management bank in the name of

workman and issued cheques in the name of other persons namely Pragaya Bharti, Satyendra Kumar, Ashok Kumar, Rajesh Kumar, Pradeep Kumar. After withdrawing the cash from the cheques issued in the different names as said above, bank used to make wages payment to the workman. It was done by the bank just to show the worker was not engaged in the bank regularly but this tribunal finds that there is no denial of the bank management that the above cheques in the different names was ever issued by the management bank and its withdrawal amount paid to Kanti Devi. Photo copies of the cheques as filed by the workman i.e Ext-W to W/13 i.e 138 in numbers satisfy her claim that she was working regularly as a part time sweeper from 2010 to 2017. Accordingly from the above discussion this tribunal finds and holds that the dispute as raised by the workman Smt. Kanti Devi is Industrial dispute as defined u/s-2(k) of I.D.Act and she was engaged in the Regional Office of the SBBJ from 22.08.2010 to 22.08.2017. Accordingly both the issues are decided infavour of the workman.

13. Now this tribunal takes the point (iii) issue for adjudication. The workman Kanti Devi has alleged in her statement of claim as well as in her evidence before this tribunal that she has been orally appointed as a temporary part time sweeper from 12.08.2010 after the death of her husband Bhajan Ram, who was a permanent part time sweeper in the Regional Office of State Bank of Bikaner & Jaipur (SBBJ) later on SBBJ merged with SBI by the notification of union of India year-2017. She also alleged that she was working as a part time sweeper regularly since 12.08.2010 in the said Regional Office of the said Bank from 8.00AM to 2.00 P.M and continued her service with the bank till 22.08.2017 in between she raised her dispute before RLC®, Patna in the mid year 2017 for regularization of her services as she has performed her duty continuously for seven years and during that period no permanent part time sweeper was posted after the death of her husband Bhajan Ram in the year 2010. She also alleged that when the conciliation failure report was sent by the Regional Labour Commissioner (C), Patna the appropriate Govt. for the reference, the management bank terminated of the service of Kanti Devi on 22.08.2017 i.e violation of Section-25F of the I.D.Act. This tribunal further finds that this assertion has been thoroughly supported by the workman Kanti Devi by way of her oral evidence as (W.W-1) and by way of documentary evidence Ext.-W to W/13 regarding her wage payment from 2010 to 2017 (details of Exts noted above). The workman Kanti Devi categorically stated in the her evidence that she received the wage payment in cash from after withdrawal of the cheques issued by the bank in her name and cheque issued by the bank in the name of Sri Rajesh Kumar, Kamta Singh, Satyendra Narayan Singh, Ashok Kumar, Pragaya Bharti, Santosh Kumar, Umesh Kumar, Pradeep Kumar who were the employee of the bank. The withdrawal amount of the issued cheques was paid to her as a wage payment by the Regional Office of the SBBJ. This tribunal finds that there is absolutely no challenge ever made by the bank of this assertion of the workman regarding her mode of her payment. That clearly indicates that the workman performed her duties as temporary part time sweeper in the Regional Office in the SBBJ from 2010 to 2017 on regular basis. She worked more than 240 days per year preceding the termination of her service on 22.08.2017. However, it is argued from the bank side that the workman Kanti Devi was only engaged intermittently on temporary basis and her engagement was totally on need best. It has been also submitted that the workman never completed continuous service for more than 240 in any a year. So provision of section-25F does not arise at all. It is also argued that when the SBBJ merged in State Bank of India by the notification union of India, the service of Kanti Devi came to end automatically so her claim of termination is not at all maintainable. However, neither the workman nor the so called union raised the dispute u/s-2(A) or 2(K) of the I.D.Act regarding termination of her service. Therefore the notification issued by the Govt of India regarding regularization service of Kanti Devi is totally illegal against the provision of law as it is laid down by the Hon'ble Apex Court as reported in State of Orissa & Others Vs Prasana Kumar Sahoo AIR-2007 SC-2588 wherein it was held, the regularization as his well known is not a mode of recruitment policy decision to absorb a person who is not in employment of the state without following the recruitment rules would not confine any legal on right him. Here this tribunal scrutinized the contention of the bank and evidence as produced before this tribunal, this tribunal finds that no evidence is brought on record by the bank orally or documentary that could show that workman was not engaged by SBBJ Regional Office, Patna from 2010 to 2017 as per the claim of Kanti Devi rather management witness admitted this facts that there was no permanent part time sweeper posted in the SBBJ, Regional Office, Patna after the death jof Bhajan Ram from the year 2010 and the Bhajan Ram who was husband of workman Kanti devi. This tribunal further finds that workman thoroughly proved her claim about her continuous work in SBBJ Regional Office, Patna from 12.08.2010 to 22.08.20017 by her oral as well as documentary evidence as bank has been totally failed to discard the testimony of workman as W.W-1 and bank also could not challenge the document filed by the workman for her wage details Ext.-W to W/13 as discussed earlier. It is settled principle expressed by the Hon'ble Apex Court that if a causal / temporary workman performed duties for fairly long spell a presumption may arise that there is regular need for his / her for her his services, in this situation it becomes obligatory for the concerned authorities to examine the feasibility of his / her regularization while doing so the authority ought to adopt positive approach coupled with empathy for the person. Here in the instatnt case, this tribunal already discussed and found, the workman Kanti Devi was engaged by the management as temporary part time sweeper on regular basis from year 2010 to 2017 (about seven years). Under the circumstances it can be safely inferred that bank needed the service of Kanti Devi

and utilized her services as part time sweeper for about seven years. So tribunal finds no force in the contention of the management that Kanti Devi was never engaged by the bank on regular basis and her service has been utilized by the bank as and when required by the bank. This tribunal further finds that the management bank also took plea that no temporary workman can claim of regularization if there is no permanent post vacant in the said bank. Management tried to rely the findings for Hon'ble Apex Court held in State of Maharashtra and Ors Vs R.S.Bhonde and Ors (2005) 6 SCC 751 it was held by Hon'ble Apex Court that status of permanency can not be granted. When there is no post and mere continuance every year of seasonal work during the period when work was available, does not constitute a permanent status unless there exists a post and regularization is done. The management bank also relied upon a ruling Union of India and others Vs Ilmo Devi and others Civil Appeal No.- 5689-569 of 2021 (2021 SCC) SC 899. The Honble Apex Court has held in the said case part employee are not entitled to seek regularization as they are not working against any sanctioned post and there can not be any permanent continuance of part time temporary employee as held. Part time temporary employee in Govt. run institution can not be claim parity in salary with regular employees on principle of equal pay for equal work. This tribunal is not convinced that to the bank conducted the rules as filed by the management bank because here is instant case there was permanent part time sweeper post was vacant in the Regional Office, SBBJ, Patna after the death Bhajan Ram husband of Kanti Devi in the year 2010. Later on the management bank utilized the services of Kanti Devi as a temporary part time sweeper against the said permanent post. This tribunal further finds that the workman Kanti Devi performed duties as part time sweeper 2010 to 2017 on regular basis that get corroboration from documentary and oral evidence.

14. This tribunal further finds and hold from the above discussion that Late Bhajan Ram the husband of workman Kanti Devi was working in the Regional Office of (SBBJ) Patna as permanent part time sweeper, who died in his service tenure in the year 2010. Thereafter Kanti Devi (Workman) the wife of Late Bhajan Ram got engagement in the said bank from 12.08.2010 and she started doing job of part time sweeper with the permission of authority. She continue her job for seven years till 22.08.2017. Kanti Devi was doing the job of part time sweeper as a temporary workman in the Regional Office, (SBBJ), Patna against the permanent post of part time sweeper that fall vacant after the death of Late Bhajan Ram i.e dully admitted by the management witness before this tribunal. This tribunal also finds that SBBJ merged into the SBI by the notification of Union of India in the year 2017 that indicates that SBBJ stepped into the shoes of SBI. All the liabilities and working condition of SBBJ was automatically shifted with the SBI. This tribunal further finds that when workman Kanti Devi raised the instant dispute for the regularization of her job and during the course of conciliation the job of Kanti Devi got to be terminated by the bank authority on 22.08.2017. This tribunal also finds that the job of Kanti Devi as part time sweeper (temporary) was perranial in nature as she worked more than 240 days per year as per provision of 25F of the I.D.Act. Preceding her termination i.e covered u/s 2(OO) of I.D.Act this is clear cut on unfair labour practice defined u/s-2(r)(a) i.e statutory prohibited u/s- 25(T) of the I.D.Act. This tribunal further finds that section 10(1)(4) of the I.D.Act deals to adjudicate the reference as specified in the terms of reference referred by appropriate government to the tribunal. The adjudication of said reference shall confine within the terms of reference and matter incidental there too here this reference is made to adjudicate regarding not regularization it the services of Kanti Devi. She has working as a part time sweeper in the bank continue since 12.08.2010 is justified or not but tribunal further finds that during the conciliation tenure the service of Kanti Devi got to be terminated by the bank. This matter is incidental to the terms of reference.
15. Thus on scrutinizing all the facts and circumstances of the case and the submissions as advanced on behalf of both the sides and discussions as made above this tribunal finds and hold that Kanti Devi (workman) discharged her duties as temporary part time sweeper in the Regional Office (SBBJ) for seven years on regular basis under the circumstances utilizing the service of Kanti Devi about seven years for more than 240 days per year preceding to the termination, the action of the management in not regularizing the service of Kanti Devi is not justified and later on taking her job during the course of conciliation on 22.08.2017 is also not justified. As I.D Act is social welfare legislation. It also attract the provision of Article 38, 39 (a) to (e), 43 and 43(A) of part iv constitutional of India. Her the SBBJ the management bank after merger with the SBI bank was duty bound to consider above utilized work of Kanti Devi for the seven years. Accordingly this issue is decided infavour of workman.
16. Point No.IV:- Keeping in view discussions as made above and the findings arrived at on other points, this tribunal finds and hold that the services of Kanti Devi should be regularised w.e.f 01.09.2017 as management bank has utilized her services of more than 240 days in the preceding year.. Besides regularization she has also entitled for reinstatement in the services of the bank as part time sweeper on ½ scale of class IV employee with full back wages. This point is accordingly decided.
17. In the result this is the considered opinion of the tribunal, that claim of Kanti Devi to regularize her services as part time sweeper in SBI (previously SBBJ) and for her reinstatement in the services on ½ wages of class

IV employee with full back wages is justified, accordingly management of SBI is directed to regularize the services of Kanti Devi as part time sweeper

w.e.f 01.09.2017 and further to reinstate her service as part time sweeper on ½ scale wages of IV employee with full back wages. The management bank is directed to comply the order of this tribunal within two months after Gazatte of publication of this award.

This is my award accordingly.

Dictated & Corrected by me.

Dated: 28.04.2023

MANOJ SHANKAR, Presiding Officer

नई दिल्ली, 6 जून, 2023

का.आ. 928.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (12/2018) प्रकाशित करती है।

[सं. एल- 41011/45/2017- आई आर (बी.डी)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2023

S.O. 928.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.12/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L- 41011/45/2017- IR(B.I)]

SALONI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : SUNIL KUMAR SINGH-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated 31st March, 2023.

Reference: (CGITA) No- 12/2018

1. The General Manager,
Western Railway, Churchgate,
MUMBAI – 400020.
2. The Divisional Railway Manager,
Western Railway, Asarwa, Nr. Chamunda Bridge,
Ahmedabad(Gujarat) -
3. The Asstt. Electrical Engineer (Broad Gauge),
Western Railway, Railway Station Building,
Kalupur,
Ahmedabad(Gujarat)

.....First Party

V

The President,
General Workman Union,

Sinduri Mata's Devasthan,

S. T. Nagar Road,

Dist : Panchmahal,

Godhara (Gujarat) -389001.

.....Second Party

Advocate For the First Party employer : Shri R. K. Sharma

Advocate For the Second Party workman : Shri J. K. Ved

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/45/2017-IR(B-I) dated 22.01.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of Divisional Railway Manager Western Railway, Ahmedabad to terminate the service of Shri Parvatsing Virsing Patel, Ex-Cleaner is legal, fair and justified? If not so, then what relief the workman is entitled to and what other directions are necessary in the matter?”

1. Today, the matter was called out. First Party employer is represented through Ld. Counsel Shri R. K. Sharma. Second Party is represented through Shri J. K. Ved, President, General Workman Union. The Second Party workman's union has filed withdrawal pursis vide Ex.7 wherein it is prayed that the SP union does not want to pursue the matter further as the workman has expired and his legal heirs whereabouts are not traceable to him hence requested to withdraw the case. Withdrawal is not opposed by First Party. The Second party/workman's union is permitted to withdraw the reference as prayed for. Therefore, the reference is disposed of as withdrawn by the second party workman's union.
2. Thus the reference is finally disposed of as withdrawn.

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of Industrial Disputes Act.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 6 जून, 2023

का.आ. 929.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **अहमदाबाद** के पंचाट (109/2019) को प्रकाशित करती है।

[सं. एल- 41011/20/2019- आईआर-(बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2023

S.O. 929.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 109/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen.

[No. L- 41011/20/2019-IR (B-I)]

SALONI, Dy. Director

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
AHMEDABAD

Present : SUNIL KUMAR SINGH-I, Presiding Officer

CGIT cum Labour Court,

Ahmedabad,

Dated 24th March, 2023.

Reference: (CGITA) No- 109/2019

1. The Divisional Railway Manager,
Western Railway, Asarwa, Nr. Chamunda Bridge,
Ahmedabad(Gujarat)-380016
2. The Sr. Divisional Operation Manager,
(Barista Mandal Parichanlan Prabandhak),
Western Railway, Asarwa, Nr. Chamunda Bridge,
Ahmedabad(Gujarat)-380016

.....First Party

V/s.
The Secretary,
Indian Railway Labour Federation,
28-B, Narayan Park, B/h Chandkheda Railway Station,
Sabarmati, Ahmedabad(Gujarat)

.....Second Party

Advocate For the First Party employer : Shri H. R. Raval
 Advocate For the Second Party workman : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/20/2019-IR(B-I) dated 19.06.2019 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Divisional Railway Manager, W. R. Ahmedabad in not granting the benefit of promotion of grade pay w.e.f. 9.12.2014 to Shri Arvind Kumar Raval, Ex-Shunting Master, because of operating of penalty during that period is just and legal? If not, what relief Shri Arvind Kumar Raval is entitled to and what other directions are necessary in the matter?”

1. Today, the matter was called out. First Party employer is represented through Ld. Counsel Shri H. R. Raval. None responded for Second Party/Workman's union. The reference dates back to 19.06.2019. The notice Ex. 2 was served on second party by acknowledgement Ex. 4, wherein the second party was asked to submit the statement of claim on 07.11.2019. Second Party/Union has been afforded 14 opportunities to file its statement of claim, but for no avail. It appears that the workman/Second Party union is not interested to proceed further in the matter.
2. There is no evidence on record to substantiate the demand of the workmen's union in respect of the benefit of promotion of grade pay to workman Shri Arvind Kumar Raval. Hence the reference is disposed of, with the observation that the action of the management of Divisional Railway Manager, W. R. Ahmedabad in not granting the benefit of promotion of grade pay w.e.f. 9.12.2014 to Shri Arvind Kumar Raval, Ex-Shunting Master, because of operating of penalty during that period is just and legal. The concerned workman is not entitled for any relief.” The reference is answered in positive in favour of the employer.
3. Award is passed accordingly.

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of Industrial Disputes Act.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 6 जून, 2023

का.आ. 930.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इक्विटास स्मॉल फाइनेंस बैंक के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं 2 दिल्ली के पंचाट (174/2020) प्रकाशित करती है।

[सं. एल- 12025/01/2023-आईआर(बी-I)-60]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2023

S.O. 930.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 174/2020) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No -2 Delhi* as shown in the Annexure, in the industrial dispute between the management of *Equitas Small Finance Bank* and their workmen.

[No. L- 12025/01/2023-IR(B-I)-60]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM- LABOUR COURT-II, NEW DELHI

Present : SMT. PRANITA MOHANTY

ID. No. 174/2020

Shri Ashish Kumar Maurya,
R/o House No. 313, Room No. 406,
Gali No. 16, Rangpuri, New Delhi-110037.

.....Claimant

Versus

Equitas Small Finance Bank,
C-10, Shivalik Punchsheel Geetanjali Road,
New Delhi-110017

.....Management.

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. ND. 96(08)2020-ID-FOC-DY-CLC dated 31.07.2020/24.09.2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

“ Whether the action of the management of Equitas Small Finance Bank Ltd. in terminating the services of the workman Sh. Ashish Kumar Maurya w.e.f 05.05.2017 is just, fair and legal? If not what relief the workman concerned is entitled to and from which date?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, claimant opted not to file the claim statement.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put his appearance nor has he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Smt. PRANITA MOHANTY, Presiding Officer

Dated: 1st May, 2023

नई दिल्ली, 6 जून, 2023

का.आ. 931.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ़ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, 2 दिल्ली के पंचाट (133/2015) प्रकाशित करती है।

[सं. एल-12012/47/2014-आईआर-(-बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2023

S.O. 931.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 133/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No -2 Delhi* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12012/47/2014-IR (B-I)]

SALONI, Dy. Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present : Smt. PRANITA MOHANTY, Presiding Officer
C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 133/2015

Date of Passing Award- 11.04.2023

Between:

Shri Sanjai Kumar S/o Sh. Harnam Singh
R/o Jamalpur Alam, Aamkheda, Sanjarpur
Pargana, & Station Dhampur, Distt. Bijnor,
Uttar Pradesh

.....Workman

Versus

M/s. The State Bank of India,
Dhampur, Bijnor, Uttar Pradesh

.....Management

Appearances:-

Sh. B.S Rawat, Ld. A/R for the claimant.
Ms. Savita Singh, Ld. A/R for the management.

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of (i) The State Bank of India, Dhampur, Bijnor, Uttar Pradesh and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-12012/47/2014-(IR(B-1)) dated 31/08/2015 to this tribunal for adjudication to the following effect.

“Whether the workman Shri Sanjai Kumar was removed from the service of State of Bank of India w.e.f. 07.01.2012 without any valid reason, due procedure and compensation? If so, should he be reinstated with back wages or any compensation?”

As per the claim statement the claimant Sanjay Kumar was appointed as a messenger/peon in the state Bank of India Dhampur, Bijnor U.P. on 14.07.2001 on monthly remuneration 2000. Though he was discharging his duty to the utmost satisfaction of the employer, not getting the legitimate dues and the benefits guaranteed under law. He was often making demand for appointment letter casual leave over time wage and minimum wage notified by the Government. This demand of the claimant created annoyance in the mind of the employer and as a result thereof, his service was terminated illegally on 07.01.2012. At the time of termination no notice of termination, notice pay or termination compensation was paid by the mgt. Not only that his earned wage for the month Jan., 2012 was also not paid. Finding no other way he served demand notice on the mgt Bank on 12.03.2012. The mgt did not reply to the same. He then raised a dispute before the Central Labour Commissioner Dehradun, where a conciliation proceeding was initiated. The mgt appeared and filed written reply denying the claim as advanced by the Workman. The conciliation since failed, the appropriate Govt. referred the matter for adjudication as per the terms of reference. The claimant in the claim petition has prayed that he be reinstated into service with consequential benefits and back wages and continuity of service.

The mgt Bank appeared and filed w/s denying the claim advanced by the claimant. It has been stated that the claimant was never employed by the Bank and there is not sanction post of water man in the Bank as claimed by the claimant. Neither he was employed as a part time worker nor a full time worker too. The specific stand of the management is that, he was working as a daily wager on need basis and getting the wage calculated for day's work. He had worked as such from 14.07.2004 to Dec 2011 on need basis and after December 2011 he stopped reporting for work. During this period, he had never worked for 240 days in a calendar year. With an ill intention of obtaining the status of a permanent employee in the Bank, he filed a writ petition before the Hon'ble High Court of Allahabad in the year 2012. But the writ petition was dismissed with observation that the workman can seek redress under the Industrial Dispute Act. The claimant instead of approaching the Labour Court, made an application before the Additional Labour Commissioner Bijnor U.P. For the objection raised by the Bank Management, the said petition was rejected. He filed another claim petition before the Labour Commissioner Bijnor U.P. where a conciliation took place and the Bank made payment of Rs.3000/- to the claimant towards full and final settlement of the claim. But the claimant with an evil intention again filed a petition before the Labor Commissioner (central) Dehradun where reconciliation took place in the year 2015. The conciliation since failed the matter was referred to this Tribunal. Thereby, the mgt Bank has stated that the claim advanced by the claimant is not maintainable as there exists no employer and employee relationship between the parties. The claimant was neither a part nor a full time employee of the Bank. He was being engaged as a contractor and getting the remuneration for the service rendered which was purely on need basis. No salary was ever paid and the payment were made on the basis of the voucher raised by the claimant. The mgt Bank has thus prayed for dismissal of the claim petition.

The claimant filed rejoinder denying and challenging the stand of the Bank mgt. In the written rejoinder it has been stated that the claimant was working as a Peon cum messenger in the Bank for a pretty long period, which is for more than 11 years. As a part of his service, he was the work of the peon as well as messenger. He was carrying the voucher boxes to the treasury and for the said work, the Bank was paying him the traveling allowances. But he was subjected to unfair labour practice when the Bank without following the procedure of the ID Act terminated his service illegally.

On this rival pleadings the points which need to be adjudicated are:

1. Whether there exists employer and employee relationship between the claimant and the mgt Bank.
2. Whether the Service of the claimant was illegally terminated by the Bank in gross violation of the provisions of the ID Act.
3. To what relief the claimant is entitled to.

Before commencement of the evidence the claimant had filed an application invoking the provisions of Section 11(3) of the ID Act wherein a prayer was made for a direction to the Bank to produce the documents. The documents called for by the claimants were the attendance register and the register showing payment of remuneration to the claimant. The mgt did not file any reply to the application and the same was allowed, giving liberty to the claimant to produce secondary evidence.

The claimant examined himself as WW1 and produced some documents which are marked in the series of WW/1/1 to WW1/6. Similarly the mgt examined its manager as MW1 who also produced documents marked in the series of MW1/1 to MW1/1. Both the witness were cross examined as length by their adversaries. Whereas the claimant has filed the photocopy of the Bank passbook, Bank statement and the Rickshaw fare paid to him by the Bank for carrying the voucher boxes to the treasury and the representations made to the Branch Manager of the Bank, the mgt witness filed the photo copies of the attendance register of the Bank for a fraction period in respect of

which claim has been filed. On behalf of the Bank several photo copies of the vouchers raised by the claimant for serving water to the Bank employees has been filed. In addition to that, the Bank has also filed the objection filed during the conciliation proceeding and a document showing receipt of 3000 rupees by the claimant during the conciliation proceeding etc.

FINDING

Point no.1 &2

At the outset of the arguments the Id. Counsel representing the mgt submitted that the entire claim advanced by the claimant is baseless and stands upon a misconception of fact. Placing reliance on the vouchers showing payment to the claimant for supply of drinking water, she submitted that the workman should initially discharge the burden of proving his relationship with the mgt as its employee. The mgt from the very beginning is pleading that the claimant was a contractor engaged for execution of some work on need basis. Sometimes he was working himself and sometimes through the men engaged by him and getting the payment as per the bill raised for the specific work. This pleading of the mgt has been corroborated by the witness examined as MW1 who has further stated that the claimant was not appointed against any vacancy and through the procedure followed by the Bank. Neither he was a part time nor a full time employee of the Bank. The Id. Counsel for the mgt while pointing out to the cross examination of the claimant stated that the claimant has admitted not have received any appointment letter from the Bank. Had he been an employee of the Bank he would have been issued with an appointment letter. By producing the attendance register of the Bank, she also submitted that the employees of the Bank use to sign on the attendance register and the attendance register of a part period filed by the Bank does not contain the signature of the claimant, which proves that he was not appointed as an employee of the Bank and the claimant thus has failed to prove the initial burden of showing the employer and employee relationship. The contrary argument advanced by the claimant is that that documents exhibited as WW1/3, the Bank passbook and the Bank statement clearly proves that he was working exclusively for the Bank and getting fixed amount of remuneration credited to his account every month. Had he been a contractor or a daily wager engaged on need basis, the amount of remuneration of payment made every month in the Bank account would not have been the same. The claimant has filed several other documents to show that as a part of his work as the messenger and peon, he was doing the job of carrying the challan copies to the treasury in respect of the Govt. transaction. The Bank was paying the traveling allowance to him in form of Rickshaw fare. The Id. A/R for the claimant submitted that had the claimant not been an employee he would not have been entrusted with the responsibility of carrying the vouchers and treasury challans of Govt. Transaction from the Bank to the treasury. The other argument advanced by him is that the claimant had filed an application for production of relevant documents relating to his employment from the custody of the bank. But the Bank intentionally did not file the documents and on that ground also adverse inference is to be drawn against the Bank mgt.

The Id. A/R for the mgt further submitted that besides the burden which lies on the claimant to prove the employer and employee relationship, in order to get the relief of regularization, he is also required to prove that he had worked in the Bank for 240 days in a calendar year. Unless this burden is discharged, in view of the objection raised by the mgt in the w/s and through the witness, the claimant is not entitled to the benefits prayed for. In his reply the Id. A/R for the claimant argued that the claimant is a poor employee working as the peon/messenger of the Bank. The documents filed by him clearly proves that he was working for the Bank from 2001 to 2012. But the Bank for no valid reason terminated his service and at the time of termination the provisions of the ID Act were not followed. But as an abundant caution the claimant had made a prayer for a direction to the mgt for production of the valid documents which could have thrown light on the point of controversy. But the mgt intentionally withheld the documents.

The claimant while deposing as WW1 has stated that he was appointed in the Bank on 14.07.2001 as a Messenger/Peon and his last drawn wage was 3200 per month. At the time of initial appointment his remuneration per month was Rs 2000 only. The mgt was depositing this amount in his Bank account. The copy of the bank statement has been filed as WW1/3 and WW1/4. The claimant has also stated that when the service was terminated illegally, he served a demand notice which was not replied by the mgt. By filing the copies of the applications filed before the Labour Commissioner, the witness had stated that the conciliation failed for the non cooperation of the Bank and the appropriate Govt. referred the matter to this Tribunal. The witness was cross examined at length by the mgt and during the cross examination suggestions were given to the effect that he was working as a contractor and providing the service to the Bank on need basis either through himself or through men supplied by him. For the said service rendered, he was raising voucher and getting payments. But the claimant clearly denied the suggestions and added that he was a regular employee. The mgt witness examined as MW1 while supporting the stand taken in the W.S, has stated that as per his knowledge the claimant was working for the Bank as a contractor from 2004 to 2011 and the Bank has records to prove the same. But surprisingly no document has been filed by the Bank to prove that the claimant during the relevant period was working as contractor or any written contract was ever entered between the parties.

It is the consistent stand taken by the claimant that he was working as peon for the Bank and discharging all the works discharged by the regular peons of the Bank. To counter this the mgt has filed few voucher marked in the series of mw1/3 (colly) which appears to be receipts granted by the claimant for receiving Rs.2200/- for providing drinking water. These documents do not appear relevant as against Bank statement filed by the claimant which clearly shows that every month the claimant was getting a fixed amount credited to his Bank account for his remuneration through cheque paid by the Bank. The amount as shown in the Bank statement was increasing year after year which means his wage was getting increased by efflux of time. The vouchers filed by the mgt might be with relation to some other additional work done by the claimant and has no reference to the claim of the claimant.

It is a fact noticeable that the mgt is not clear in respect of its stand on the claim advanced by the claimant. In the W.S., when it has been stated that the claimant was working as a contractor, the witness MW1 at one point of time has described the claimant as a daily wager engaged from 2004 to 2011 and at the other point, it has been stated that he was a contractor. At the cost of repetition, be it stated here that no document has been filed to prove that the claimant was getting remuneration as a contractor though the witness MW1 has claimed that the Bank has documents to prove the same.

During cross examination the claimant was asked if any appointment letter was issued to him by the Bank at the time of his appointment. To this, he replied that one appointment letter was issued to him at the time of initial appointment, but the same was taken back on the pretext of sending the same to the head office for regularization of his service. The witness examined on behalf of the mgt stated that the Bank has its own procedure for recruitment of the employees and the claimant was never appointed through the said procedure. The said witness, while producing the attendance register of the Bank for a part period that is from 19.10.2009 to 11.09.2012, deposed that the regular employees of the Bank use to sign the attendance register and the said register does not reflect the name of the claimants. On the basis of the said statement the Ld. A/R for the Bank argued that had the claimant been an employee of the Bank, his name would have appeared in the attendance register. This argument of the Ld. A/R for the Bank has lost the importance in view of the fact that the claimant had made a prayer for production of the attendance register from the custody of the Bank which was never done by the Bank. Moreover, the claimant has explained that the attendance register produced by the Bank is in respect of the clerks only whereas separate attendance registers are being maintained for the different category of the employees. Thus, the oral and the documentary evidence adduced by the claimant proves that he was working for the Bank from 14.07.2001 to 07.01.2012 and the copy of the attendance register filed by the mgt no way satisfies the stand of the claimant.

Now it is to be examined if the oral and documentary evidence adduced by the claimant proves the employer and employee relationship between the claimant and the Bank mgt. The Hon'ble Supreme Court in the case of **B.S.N.L Vs Bhurumal reported in 2014 7 SCC 177** have held that the nature of initial appointment cannot be challenged by the mgt to justify the illegal termination. In this case, the claimant has asserted to prove that he was appointed as a peon on 14.07.2001 and worked as such till 07.01.2012. While filing w/s and by examining the witness the mgt has stated that the claimant was working as a contractor and getting the remuneration for the work done by himself or through his men as per the bill raised. At the other point the stand taken by the mgt is that the claimant was working on daily wage basis and getting the remuneration. This contradictory stand taken by the mgt leads to a conclusion that the Bank mgt is not sure about the nature of the employment of the claimant and to conceal the same the documents called for were not produced.

There is no dispute about the proposition of law that onus to prove that the claimant is in the employment of the mgt is always on the workman and it is for him to adduce evidence to prove the said relationship. Such evidence may be in form of receipt of salary or evidence with regard to 240 days of work or document of employment etc. This tribunal has to consider the oral as well as the documentary evidence placed on record by both the parties so as to decide the question of relationship of employer and employee between the parties.

The workman in his affidavit has stated that he was engaged directly by the mgt to discharge the due of a peon which was perennial in nature. He has further stated that he was performing the duty under the supervision and control of the Bank mgt and getting remuneration from the Bank directly which is proved from the Bank statement. The mgt has not adduced any evidence to disprove the stand of the claimant and to prove that he was working intermittently and purely on need basis. Though the mgt had made a faint attempt of describing the claimant as a contractor, no documentary evidence has been adduced to prove the same. On the contrary, the Bank statement clearly proves that the claimant was working continuously from 2001 to Jan 2012 and the Bank was crediting his remuneration to his Bank account every month and regularly.

In this case except the bald statement that the claimant was a contractor or daily wager the mgt has not filed any record to prove the same. It seems the mgt though paying remuneration to the claimant is not sure about the nature of his employment which has been proved to be continuous from 1991 to 2011. In the case of **Steel Authority of India vs. National Union Waterfront Worker Union reported in (2001) 7SCC Page 1**, the Hon'ble Apex Court have also prescribed for the effective control test to ascertain about the relationship of the workman with the

management or the contractor. Not only that in the case of **Chintaman Rao vs. State of MP (1958(II)LLJ252)** the Apex court ruled that the concept employment involves 3 ingredients (i) Employer (ii) Employee (iii) Contract of Employment. The employer is one who employs or engages the service of other person. The employee is one who works for another for hire. The employment is the contract of service between the employer and the employee, where under the employee agrees to serve the employer subject to his control and supervision. In the case of workman of **Food Corporation of India vs. Food Corporation of India reported in (1958(ii)LLJ4)** the Hon'ble Apex Court pronounced that the contract of employment always discloses a relationship of command and obedience between them.

In this case the claimant has all along stated that he was working as a peon of the Bank and getting remuneration from the Bank. Except denial no evidence has been adduced by the Bank to disprove the oral and documentary evidence adduced by the claimant. The documents which could have been very relevant in proving employer and employee relationship are in the possession of the bank. The demeanor of the respondent Bank is noticeable from the fact that it chooses to not to produce the documents called by the claimant except few pages of the attendance register which does not contain the name of the claimant. Therefore an adverse inference is bound to be drawn against the Bank for withholding material documents.

Thus, from all the facts as adduced by way of evidence, when considered, it is evidently clear that the claimant was directly working under the control of the mgt and getting remuneration from the said mgt. The documents filed by the workman which has not been seriously challenged by the mgt proves beyond doubt that the workman was working with the mgt and as a peon and getting remuneration directly from the bank. The nature of initial appointment cannot be challenged by the mgt to justify the illegal termination which is an admitted fact that the claimant's service was terminated without serving notice of termination, notice pay or termination compensation to him. The explanation in this regard as given by the mgt witness is not acceptable. Hence it is concluded that the claimant was an employee of the mgt Bank and his service was illegally terminated without following the procedure laid down under the ID Act.

Point No. 3

The reference has been received to adjudicate if the termination of service is illegal and if so whether the claimant would be reinstated with back wages or compensation.

The claimant in his cross examination has stated that he had joined the service of the Bank in the year 2001 when his age was 20-22 years old. On calculation, claimant must be more than 40 years now. The evidence adduced by the parties is not clear, if there exists any vacancy to accommodate the claimant in the post he was working prior to his termination. Thus considering these aspects it is held that no interest of justice would be served by giving a direction to the Bank for reinstatement of the claimant into service. The proper recourse is therefore, a direction for back wages and compensation.

In the case of **Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya (2013) 10 SCC.324**

It has been held by the Hon'ble Supreme Court :-

“If the employers wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he /she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about it's existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.”

But in this case neither the mgt has pleaded nor proved the gainful employment of the claimant after termination of his service . Hence considering the facts and circumstances it is felt proper to direct the mgt to pay the back wages and compensation to the claimant in lieu of reinstatement into service. Hence ordered

Order

The reference be and the same is answered in favour of the claimant. It is held that the service of the claimant was illegally terminated by the mgt without following the procedure laid down under the ID Act. Thus the mgt in absence of proof of gainful employment is directed to pay the full back wages as per the last drawn wage of the claimant for the intervening period between his termination and publication of this award with interest, @4% per annum together with a lump sum amount of 3 Lakh as litigation expenses. The mgt is directed to make the payment within two months from the date of publication of the award with interest as directed falling which, the amount shall carry interest @of 6 % per annum from the date of accrual and till the final payment is made.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

11th April, 2023.

नई दिल्ली, 6 जून, 2023

का.आ. 932.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कृषक भारती कोआपरेटिव लिमिटेड के कारखानों और स्थापनाओं के नियमित कर्मचारियों को उक्त अधिनियम के प्रचालन से छूट प्रदान करती है। यह छूट राजपत्र में इस अधिसूचना के जारी होने की तारीख से एक वर्ष की अवधि के लिए प्रभावी रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:-

- (1) कारखाना और स्थापना छूट प्राप्त कर्मचारियों के नाम और पदनाम विनिर्दिष्ट करते हुए, कर्मचारियों का एक रजिस्टर रखेगी;
- (2) कर्मचारी उक्त अधिनियम के अधीन ऐसे फायदे प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट प्रदान करने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने और स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने पर उक्त अधिनियम (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है) प्रचालन के अध्वधीन था ऐसी विवरणियां, ऐसे प्ररूप में और ऐसी विशिष्टियों से युक्त होगी जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) उक्त अधिनियम की धारा 45 की उप धारा (1) के अधीन निगम द्वारा नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या इस प्रयोजन के लिए निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी-
 - (i) उक्त अधिनियम की धारा 44 की उप धारा (1) के अधीन, उक्त अवधि के लिए प्रस्तुत किसी विवरण में अंतर्विष्ट विशिष्टियों को सत्यापित करने; या
 - (ii) यह अभिनिश्चयन के लिए कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
 - (iii) यह अभिनिश्चयन के लिए कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार है या नहीं; या

- (iv) यह अभिनिश्चयन के लिए कि उस अवधि के दौरान, जब उक्त कारखाने और स्थापना के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा-
- (क) प्रधान या अत्यवहित नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे इस अधिनियम के प्रयोजन के लिए आवश्यक समझता है ; या
- (ख) ऐसे प्रधान या अत्यवहित नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह कार्मिक के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
- (ग) प्रधान या अत्यवहित नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
- (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
- (ङ) यथास्थिति अन्य शक्तियों का प्रयोग करना ।
- (6) विनिवेश या निगमीकरण के मामले में, प्रदान की गई छूट स्वतः रद्द हो जाएगी और तब नई इकाई को छूट के लिए समुचित सरकार को आवेदन करना होगा ।

[सं. एस-38014/07/2020-एस एस-1)]

बी. के. बिस्वास, अवर सचिव

New Delhi, the 6th June, 2023

S.O. 932.—In exercise of the powers conferred by section 88 read with section 91 A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the regular employees of factories and establishments of **Krishak Bharti Cooperative Limited** from the operation of the said Act. The exemption shall be effective for a period of one year from the date of publication of this notification in the Official Gazette.

2. The exemption is subject to the following conditions, namely:-

- (1) the factories and establishments shall maintain a register of the employees specifying the names and designations of the exempted employees';
- (2) the employees shall continue to receive such benefits under the said Act to which they would have been entitled to on the basis of the contribution paid prior to the date from which exemption granted by this notification operates;
- (3) the contribution for the exempted period, if already paid, shall not be refundable;
- (4) the employer of the said factory and establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) a Social Security Officer appointed by the Corporation under sub-section (1) of section 45 of the said Act or other official of the Corporation authorised in this behalf by it, shall, for the purpose of —
 - (i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 of the said Act for the said period; or
 - (ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

- (iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
- (iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory and establishment to be empowered to —
- (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
- (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or
- (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises; or
- (e) exercise such other powers as may be specified.
- (6) in case of disinvestment or corporatisation, the exemption granted shall stand cancelled and then the new entity may apply to the appropriate Government for exemption.

[No. S-38014/07/2020-SS-I]

B. K. BISWAS, Under Secy.

नई दिल्ली, 6 जून, 2023

का.आ. 933.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन रेलवे कैटरिंग एंड टूरिज्म कॉर्पोरेशन लिमिटेड के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकाता के पंचाट (18/2015) प्रकाशित करती है।

[सं. एल-41012/08/2015-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 6th June, 2023

S.O. 933.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.18/2015) of the *Cent. Govt. Indus. Tribunal-cum- Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Indian Railway Catering and tourism Corporation Ltd. and their workmen.

[No. L-41012/08/2015- IR(B-1)]

SALONI, Dy. Director

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA****Present:** Justice K. D. Bhutia, Presiding Officer**REF. NO. 18 OF 2015****Parties:** Employers in relation to the management of**Indian Railway Catering and Tourism Corporation Ltd.****AND****Their Workmen****Appearance :**

On behalf of Management : Absent

On behalf of the Workmen : None

Dated 13th April, 2023

AWARD

The Management of Indian Railway Catering and Tourism Corporation Ltd., the Contractor Employers M/s Swastika Enterprises and M/s Shomuk Engineering & Consultancy Services are found absent without any step like on the previous day. None appears on their behalf when the matter is called for hearing. The Union who has espoused the present dispute and the workman Rabindra Mazumder are also found absent without any step. None appears on their behalf when the matter is called for hearing.

Record shows that this is a case of 2015, but till today the Union and concerned workman have failed to file claim statement.

Therefore, a presumption can be drawn the Union and concerned workmen are not interested to pursue further with the dispute.

Be that as it may, the Govt. of India of India through Ministry of Labour vide Order No. L-41012/08/2015-I.R.(B-I) dated 19.03.2015, has been pleased to refer the following issue for determination by this Tribunal:

“(1) Whether the action of the Management of M/s Sastri Enterprises and M/s Sou Engineering Consultancy Services, contractors of IRCTC is justified by terminating the service of contractual workmen without following statutory Rules and Regulation? (2) Whether the workman is entitled to receive (i) terminal benefits under Section 25 F(a), (ii) Bonus (iii) Leave with the wages is justified or not?”

Unfortunately, no materials whatsoever is found on record for determination of above issues under reference.

In fact, non-filing of claim application by the concerned workman and the Union and their non-appearance before the Tribunal to conduct the hearing of the case proved that the Union and Workmen are no more interested to pursue the dispute perhaps they do not have any grievance against the contractor employees who have been terminated from serviced.

In view of the above, no dispute award is passed accordingly. Reference Case No. 18 of 2015 is disposed of.

Send copy of Award to the Ministry for doing the needful.

JUSTICE K.D. BHUTIA, Presiding Officer

नई दिल्ली, 7 जून, 2023

का.आ. 934.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (05/2020) प्रकाशित करती है।

[सं. एल-39025/01/2023-आई आर (बी-II) -15]

सलोनी, उप निदेशक

New Delhi, the 7th June, 2023

S.O. 934.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.05/2020) of the *Cent. Govt. Indus. Tribunal-cum- Labour Court Bhubaneswar* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-39025/01/2023- IR(B-II) -15]

SALONI, Dy. Director

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR**

Present : Sri DINESH KUMAR SINGH, Presiding Officer

CGIT-cum-Labour Court,

Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 05/2020

Date of Passing Order – 7th March, 2023

Between :

1. Managing Director,
Central Bank of India,
Head Office at Chandermukhi,
Nariman Point, Mumbai – 400 021. Maharashtra.
2. Regional Manager,

Central Bank of India, Regional Office at 108-B,
Suryanagar, Gopabandhu Chowk,
Bhubaneswar, Pin – 751 003,
Dist. Khurda, Odisha.

3. Branch Manager,
Central Bank of India, Plot No. 95,
Master Canteen Branch, Janpath,
Bhubaneswar, Pin – 751 001.

... 1st Party-Managements.

(And)

Sri Santosh Kumar Patra,
S/o. Sri Bansidhar Patra,
At. Plot No. 2530, Ambedkar Basti,
Unit-6, Bharatpur, Khandagiri,
Bhubaneswar, Pin 751 020, Dist. Khurda.

... 2nd Party-Workman.

Appearances:

None.

... For the 1st Party-Managements.

Sri Santosh Kumar Patra.

... For Himself.-2nd Party-Workman.

ORDER

The 2nd Party-workman has submitted before the Tribunal that the concerned workman had filed an application under section 2-A(2) of the Industrial Disputes Act, 1947, but during the pendency of this case the Ministry of Labour & Employment has made reference with regard to the same dispute and the same has been registered as I.D. Case No. 04/2021, so he does not want to continue with this case and has prayed to drop the case.

2. Perused this record as well as the record of I.D. Case No. 04/2021. After perusal of the record it appears that the concerned workman Sri Santosh Kumar Patra had filed a petition under section 2-A(2) of the I.D. Act and consequently the Ministry of Labour & Employment has made reference for the same dispute to this Tribunal so there are two cases running for the same dispute.

3. In view of the above facts the prayer of the concerned workman is allowed and consequently the I.D. Case No. 05/2020 is disposed of as dropped. Office is directed to consign this record to the record room.

Dictated & Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 7 जून, 2023

का.आ. 935.—औद्योगिक विवाद अधिनियम, 1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक प्रबंध तंत्र के सबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण पटना के पंचाट संदर्भ संख्या (18(C) of 2018) को प्रकाशित करती है 1

[सं. एल-12011/72/2018-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 7th June, 2023

S.O. 935.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (18 (C) of 2018) of the *Industrial Tribunal-cum-Labour Court Patna* as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-12011/72/2018–IR(B-II)]

SALONI, Dy. Director

ANNEXURE**BEFORE THE PRESIDING OFFICER INDUSTRIAL TRIBUNAL, PATNA****Reference Case No.- 18 (C) of 2018**

Between the management of (1) The Circle Head, Punjab National Bank, Circle Office, G.M. Road, P.O Lalbagh, Darbhanga-846004 (2) The Manager, Punjab National Bank, BISFI Branch, PO- BISFI, Dist.- Madhubani-847122 and their workman Shri Bijay Kumar Sah, Part Time Sweeper through represented by the President, Bank Employees Federation, Bihar, Saboo Republic, 2nd Floor, Behind Republic Hotel, Patna (Bihar) 800001.

For the management:-

Mrs. Preeti, Dy. Manager, HRD.

Sri Nand Mohan Das, Manager.

For the workman:-

Sri B. Prasad, President, Bank Employees Federation, Bihar.

Present:-

Manoj Shankar

Presiding Officer,

Industrial Tribunal, Patna.

AWARDPatna, dated-11th May 2023

By the adjudication order no.- L-12011/72/2018-IR (B-II) New Delhi, dated- 20.11.2018 the Govt. of India, Ministry of Labour, New Delhi has referred under clause (d) of sub-section-(1) and sub-section-(2A) of section-10 of the Industrial Dispute Act, 1947, (hereinafter to be referred to as “the Act”), the following dispute between (1) The Circle Head, Punjab National Bank, Circle Office, G.M Road, P.O Lalbagh, Darbhanga- 846004 (2) The Manager, Punjab National Bank, BISFI Branch, PO- BISFI, Dist.- Madhubani-847122 and their workman Shri Bijay Kumar Sah, Part Time Sweeper through represented by the President, Bank Employees Federation, Bihar, Saboo Republic, 2nd floor, Behind Republic Hotel, Patna (Bihar)- 800001 for adjudication to this tribunal:-

SCHEDULE

“Whether the action of the management of Punjab National Bank, in not regularizing service of Shri Bijay Kumar Sah, Part Time Sweeper working from 19.11.2011 at BISFI Branch, Distt. Madhubani and keeping him on daily wages since last 7 years, is justified? If not, to what relief the workman concerned is entitled to?

2. After receipt of the reference / notification, notice was issued to the parties concerned. Both parties appeared before this tribunal but the workman did not file any statement of claim.
3. From perusal of the case records, it shows that after issuance of notice, both parties appeared before this tribunal on 26.02.2019 but workman did not file any statement of claim even after availing several opportunities. On 20.01.2020 and 24.02.2020 representative of the workman Mr. B. Prasad appeared and prayed for time. On 03.03.2022 representative of the workman Sri B. Prasad of the said union appeared and submitted that no where about of the said workman is known for a long time, so kindly issue register notice to the workman. On 07.04.2022 representative of the workman Sri B. Prasad appeared and orally submitted that the workman is not in contact and this reference is raised by the union so no address of workman is mentioned in the reference notification and assured the tribunal to provide workman address. On 07.04.2022 representative of the management orally submitted and provided the address of the workman. Accordingly registered notice was issued to the workman vide memo no.- 103 dt- 08.04.2022 through registered post no.- RF 234807352IN dt- 19.04.2022. Order sheet dt- 04.05.2022 clearly shows that representative of the workman orally submits that workman is not interested to contest the case so no dispute award may kindly be passed. This tribunal finds that registered notice was not returned back in this tribunal, it means registered notice was well served upon the workman but yet two more opportunities dt 25.05.2022 and 11.07.2022 are given to workman but on 25.05.2022 and 11.07.2022 workman remained absent and no one appeared on behalf of the workman side. Records itself shows that several opportunities were given by this tribunal but the workman never turned-up. Hence, this tribunal finds and hold that continuous absence of workman, despite knowledge, itself shows that now workman has no interest in the instant dispute, perhaps he has no grievance at all now.
4. In view of the above aforesaid discussion this is a considered opinion of this tribunal, since workman has no dispute, hence this tribunal has no alternative but to pass “No Dispute Award” in this case. Thus this tribunal pass “No Dispute Award” accordingly. This award is effected after date of publication in gazette.

This is my award accordingly.

Dictated & Corrected by me.

Dated: 11.05.2023

MANOJ SHANKAR, Presiding Officer